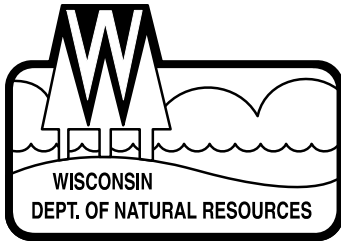


US EPA ARCHIVE DOCUMENT



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
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December 17, 2010

Jennifer Conner-Haynes (WS-15J)
U.S. Environmental Protection Agency (EPA)
77 West Jackson Blvd.
Chicago, IL 60604-3507

Subject: Progress Reports for 2007 State Innovation Grant PI00E32201

Dear Ms. Conner:

The Department of Natural Resources is pleased to submit progress reports for the 2007 State Innovation Grant project, *Use of Whole Farm EMS as a Supplement to CAFO Permits for the Dairy Sector*.

If this report does not meet EPA's needs or you would like to suggest ways to improve the final report, please don't hesitate to contact me at 608-266-8226 or jeffrey.voltz@wisconsin.gov.

Sincerely,

Jeffrey Voltz,
Environmental Assistance Coordinator/Agriculture Sector Specialist
Bureau of Cooperative Environmental Assistance

cc: Tom Davenport - EPA Region 5
Marilou Martin - EPA Region 5
Felicia Gaines- EPA Region 5
Jerry Filbin- EPA HQ

Progress Report (12/2/09-12/17/2010)

Award: 2007 State Innovation Grant (Assistance ID# PI-00E32201-0)
Recipient: Wisconsin Department of Natural Resources (DNR)
Project: Use of Whole Farm EMS as a Supplement to CAFO Permits for the Dairy Sector

Section 1 -- Synopsis of Accomplishments During Reporting Period

During this reporting period DNR experienced progress on several major project tasks.

Outreach (contractors)

Project Activities

Outreach to prospective producer-trainees and stakeholders has concluded and the contractor, Perfect Environmental Performance (PEP), has completed EMS training and on-farm technical assistance. The remaining balances of contractor deliverables are limited, primarily, to grant close-out-related activities, such as providing a draft final report to DNR and a submitting a final report.

EMS Training & EMS auditing (contractors)

Project Activities

As noted above, PEP has completed EMS training and on-farm technical assistance for the farms which successfully completed EMS training. See summary table in section 6 for description of activities and total hours per farm participant:

Modification of Contractual Obligations (DNR & Validus, Inc)

On February 22, 2010 Validus, Inc and WDNR reached agreement and developed an addendum to the contract which includes a contract extension. The purpose for the change is two-fold:

- To increase the availability of resources for on-farm EMS technical assistance and internal auditing services,
- To preserve EMS auditing services to dairy producers whom have completed EMS training, and
- To provide additional time to the contractor for delivery of on-farm EMS technical assistance, internal auditing services and EMS auditing.

The contract addendum, specifically, addresses the following issues:

- Extension of the contract to 6/1/2011;
- Adding three quarterly reports to cover the extended period through 3/31/2011 for an additional \$1,499.07;
- Reducing the number of total fully equivalent audits to three (3) complex audits at a rate not to exceed \$5000 per audit; i.e. based on 32 hours pre-audit preparation, on-farm, post reporting, plus eight (8) hours travel, travel expenses
- Eliminating the simple audit component and replacing it with an internal audit module in order to track program progress on a minimum of seven (7) operations as designated by DNR not to exceed \$4,375 per internal audit; based on 20 hours pre-audit preparation, on-farm and post reporting, eight (8) hours travel, travel expenses.
- Provide on-farm technical assistance and EMS FE readiness reviews to producers who participated in EMS training;
- Accounting for on-farm technical assistance and EMS FE readiness review will itemize (per farm), in a format acceptable to the department, all information pertaining to the nature of the on-farm technical

assistance, readiness review, internal audit services and EMS audits. This information shall be contained in all future quarterly reports and summarized in the final report submitted to the department;

- All on-farm EMS technical assistance and EMS FE preparation will only be conducted by "Environmental Auditors," as per Wis. Stats. §299.83 (7m), or based on any supplementary communication from the WDNR concerning qualifications. Subcontractors may assist in the administration of the on-farm EMS technical assistance and EMS FE preparation, but shall not assume a primary role in the delivery of any of the services pertaining to technical assistance or EMS FE preparation;
- Final report draft due on May 1, 2011; and
- Final report due on June 1, 2011

Please see "Attachment A" for a copy of addendum.

To date, Validus, Inc has delivered internal audit module services to seven (7) farms. Additionally, Validus, Inc has provided a full stage-two audit to one farm. The results of this audit and close out activities are still being addressed by Validus, Inc. However, the farm receiving the stage-two audit has begun to address corrective actions. Results of this audit and corrective actions will be summarized in the final report.

Additionally, Validus, Inc is in the process of scheduling a second, stage two audit with at least one additional farm either by the end of calendar year 2010, or early 2011.

Dairy Business Association-Green Tier Advancement Project (DNR)

WDNR continues to meet regularly with principals and staff of the Dairy Business Association-Green Tier Advancement Project (DBA-GTAP) to discuss:

- Producer-member participation in EMS training and Green Tier,
- Strategies for maximizing resources, and
- Methods for engaging stakeholders in order to address environmental and economic issues specific to the dairy industry.

WDNR and DBA-GTAP have concluded meetings of the "Interested Persons Group" (IPG),

- The IPG, after a series of five face-to-face meetings and several conference calls, arrived at a series of recommendations that are principally focused on:
 - Increasing participation in the DBA-GTAP,
 - Increasing environmental performance of DBA-GTAP participants, and
 - Improving the financial benefit to participants who achieve superior environmental performance.
- The Final Report of the IPG is attached as "Attachment B."

An annotated version of the Workplan that was included in our final project narrative is attached at the end of this report for reference purposes.

Section 2 -- Narrative Discussion

A quick glance at the attached annotated workplan will reveal progress was made

Producer Recruitment and EMS Training:

As mentioned previously, producer recruitment, EMS training and on-farm EMS technical assistance complete.

EMS auditing

As noted briefly in section one (1), the auditing contractor requested and was provided an addendum to the contract. The WDNR and Validus, Inc believe the aforementioned addendum is both necessary and appropriate given the lessons learned, to date, from EMS training and auditing. By securing EMS auditing services and providing supplemental services related to EMS internal auditing and technical assistance, WDNR and Validus, Inc believe dairy producers will increase the likelihood of achieving fully-implemented EMS.

DBA-Green Tier Advancement Project (DBA-GTAP)

In our approved project narrative, DNR highlighted the DBA-GTAP Charter negotiations as an external influence vital to the success of our SIG project.

In fact, we viewed the Charter as a virtual pre-requisite to all our State Innovation Grant (SIG) outreach and recruitment efforts. The Charter is important in at least two fundamental ways. First, it establishes a partnership relationship between DNR and a key stakeholder, DBA. Second, it establishes a shared commitment by DNR and DBA to support and promote the activities described in our SIG project narrative.

In other words, DNR has a partner invested in the success of the SIG project and has brought resources to assist in recruit, train, and assist EMS candidates in the dairy sector due, in large part, to DBA-GTAP receiving a 100,000 USDA-NRCS Conservation Innovation Grant (CIG). Had the Charter negotiations broken down, or had DBA-GTAP not received a grant from USDA-NRCS, DNR believes it would have been nearly impossible to recruit dairy sector participants for this project. And while recruitment has been less than the Parties anticipated, the Charter, SIG and CIG have allowed for both an established foundation from which the Parties can work from and limited resources to build upon that foundation.

One key element to the DBA-GTAP Charter is the commitment of the Parties to the Interested Persons Group (IPG). At the request of DNR Secretary Matt Frank and subsequent agreement of DBA-GTAP, the IPG was charged with developing new incentives for DBA-GTAP Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability. The IPG is jointly managed by DNR project manager and DBA-GTAP Executive Director. Both DNR and DBA-GTAP have hired a third-party, objective facilitator to assist the group in developing recommendations for DBA-GTAP and Secretary Matt Frank.

As noted above (section 1), the IPG, after a series of five face-to-face meetings and several conference calls, arrived at a series of recommendations that are principally focused on:

1. Increasing participation in the DBA-GTAP,
2. Increasing environmental performance of DBA-GTAP participants, and
3. Improving the financial benefit to participants who achieve superior environmental performance.

The recommendations have a slightly different focus than was originally anticipated. Previously, the IPG was actively interested in creating a framework in which a marketing strategy could be developed to reward dairy producers and dairy processors whom commit to and demonstrate beyond-compliance performance. The IPG utilized the expertise of the Dairy Business Innovation Center to understand strategies for access to markets and how to develop a marketing strategy, but in the end the IPG did not recommend market development as a priority issue.

To date, the recommendations of the DBA-GTAP IPG have not yet been acted upon. The primary reason for this is a lack of additional resources necessary to carry out the recommendations. See Attachment 2 for additional information about the process and recommendations developed.

Section 3 -- Projection of Activities, Accomplishments, and Major Expenditures for Next Quarter Report

Because recruitment and subsequent training was slow to start, the ability to audit or utilize an audit module was delayed. Given these delays, WDNR requested a no-cost one-year extension in 2010. This extension was granted, providing the department until October of 2011 to finalize both the project and final report. Additionally, because of staff shortages and reallocation of staff time, DNR does not anticipate submitting additional quarterly reports. Instead, DNR will submit a final report by October of 2011.

Section 4 -- Financial Report

The expenditures this quarter were for personnel, fringe, travel, supplies, other and indirect costs. DNR believes actual expenditures to date are completely consistent with planned below. As of September 2010, the department has authorized payments for the following amounts.

	Approved Budget	FY08 Expend	FY09 Expend	FY10 Expend	Total Earned	Balance Remaining
A. Personnel	\$30,000	\$8,075.33	\$14,617.35	\$13,686.85.10	\$36,380.00	-\$6,380.00
B. Fringe Benefits	\$14,535	\$3,303.59	\$6,815.69	\$6,239.26	\$16,359.00	\$-1,824.00
C. Travel	\$4,500	\$383.00	\$100.61	\$203.05	\$687.00	\$3,813.00
D. Equipment	-	-	-	-	-	-
E. Supplies	\$2,500	\$712.77	\$255.97	\$131.98	\$1,101.00	\$1,399.00
F. Contractual	\$215,000	\$4,121.65	\$79,409.37	\$40,712.26	\$124,243.00	\$90,757.00
G. Construction	-	-	-	-	-	-
H. Other	\$3,000	\$408.87	\$965.27	\$546.08	\$1,920.00	\$1,080.00
I. Total Direct Costs	\$269,535	\$17,005.21	\$102,164.26	\$61,519.48	\$180,689.00	\$82,846.00
J. Total Indirect Costs	\$5,465	\$1,396.19	\$2,929.90	\$2,871.35	\$7,197.00	-\$1,732.00
K. TOTAL COST	\$275,000	\$18,401.40	\$105,094.16	\$64,390.83	\$187,886.39	\$87,113.61

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Section 5: Annotated Workplan for Quarterly Progress Report (12/2/09-3/15/10)

Task	Start	Finish	Status
Grant Application			
a. Submit draft workplan narrative and logic model to EPA	5/16/07	6/4/07	Done
b. Submit final workplan and application package via Grants.gov	6/7/07	6/14/07	Done
c. Identify long-term performance measures and evaluation methods as part of QAPP	6/14/07	8/13/07	partial draft completed
d. Submit QAPP to EPA	6/14/07	8/13/07	partial draft completed
Contract(s) for Support			
a. Identify scope of work (i.e. activities) to be contracted	6/14/07	9/14/07	Done
b. Request proposals for contract(s)	9/17/07	10/19/07	Done
c. Review proposals and select contractor(s)	10/19/07	10/26/07	Done
d. Issue contract(s)	10/26/07	11/1/07	Done
EMS Outreach Materials and Training Delivery Model			
a. Develop survey or interview questions to assess the value and effectiveness of EMS training	6/14/07	8/13/07	Done
b. Survey or interview dairy sector participants who participated in past EMS training	8/14/07	9/7/07	Done
c. Review existing EMS training delivery model and identify possible improvements	6/14/07	9/14/07	Done
d. Review existing EMS for Agriculture outreach & training materials and improve where possible	6/14/07	11/1/07	Done
e. Reassess materials and training delivery model after Class 1 completes training (repeat of tasks b, c, and d)	6/1/08	9/1/08	Done
f. Develop streamlined "do it yourself" EMS tool(s) tailored to the dairy sector	5/1/08	9/30/09	Future task
Outreach & Recruitment			
a. Develop outreach & recruitment strategy	6/14/07	10/1/07	Complete
b. Implement outreach & recruitment strategy for Class 1	10/1/07	11/1/07	Complete
c. Assess Class 1 outreach & recruitment results and revise strategy as needed	6/1/08	9/1/08	Complete
d. Implement outreach & recruitment strategy for Class 2	9/1/08	11/1/08	Complete
Compendium of Legal Requirements			
a. Develop and maintain a compendium of federal and state environmental requirements applicable to dairy producers	10/1/07	ongoing	Not started - to be covered under separate, special contract
EMS Training & Implementation			
a. Deliver EMS training to Class 1	11/1/07	4/30/08	Complete
b. Deliver EMS training to Class 2	11/1/08	4/30/09	Complete
c. Provide technical assistance with EMS implementation and	11/1/07	9/30/09	Started

Task	Start	Finish	Status
auditing as needed			
d. Survey or interview participants before and after EMS training	11/1/07	9/30/09	Near Completion
e. Arrange for ISO 14001 registration audit of at least one Wisconsin dairy producer	10/1/07	9/30/09	Functionally Equivalent Audit complete
Green Tier Applications			
a. Assist EMS training participants with submitting applications	ongoing	ongoing	On-going
b. Process applications according to established procedures	Date received	Tier 1: <60 days after public notice or public meeting; Tier 2: <1 year after beginning negotiations	No applications received
c. Fulfill mandatory participation requirements	ongoing	ongoing	No applications received
Comparative Assessment of Project Results			
a. Evaluate interim project results against goals and objectives	6/30/08	9/30/08	Future task
b. Compare Wisconsin dairy EMS project results with Minnesota dairy ERP project results and any other relevant projects	6/30/08	9/30/08	Future task
c. Monitor long-term environmental outcomes	10/1/07	9/30/10	Future Task
Policy Analysis			
a. Assess policy lessons and implications of project	9/30/09	11/31/10	Future task
Reporting			
a. Submit Progress Report to EPA for Year 1, Quarter 1	12/21/07	12/31/07	Done -
b. Submit Progress Report to EPA for Year 1, Quarter 2	3/21/08	3/31/08	Done-
c. Submit Progress Report to EPA for Year 1, Quarter 3	6/20/08	6/30/08	Done-
d. Submit Progress Report to EPA for Year 1, Quarter 4	9/20/08	9/30/08	Done-
e. Submit Progress Report to EPA for Year 2, Quarter 1	12/21/08	12/31/08	Done-
f. Submit Progress Report to EPA for Year 2, Quarter 2	3/21/09	3/31/09	Done-
g. Submit Progress Report to EPA for Year 2, Quarter 3	6/20/09	6/30/09	See report for (3/09-12/09)
g. Submit Progress Report to EPA for Year 2, Quarter 4	9/20/09	9/30/09	See report for (3/09-12/09)
g. Submit Progress Report to EPA for Year 3, Quarter 1	12/21/09	12/31/09	See report for (12/09-3/10)
g. Submit Progress Report to EPA for Year 3, Quarter 2	3/21/10	3/31/10	See report for 12/09-12/10)
g. Submit Progress Report to EPA for Year 3, Quarter 3	6/20/10	6/30/10	See report for 12/09-12/10)

Task	Start	Finish	Status
h. Submit Final Report to EPA	9/30/10	12/29/10	Future task

Section 6: Summary of Farm Participants

Numbering/Identification

There are ten farms (one with a cheese factory) identified as NE 1-10. There are four from Kewaunee County, five from Calumet County and one from Manitowoc County.

There are four farms and a cheese factory identifies as NW 1-5. The cheese factory and three farms are in Barron County. The fourth farm is in Pierce County.

Resources

Each farm summary identifies the number of hours provided to support the specific farm. Since schedules and productions of materials were coordinated for efficiency, some of the work efforts were divided on average and assigned to each farm. The chart shows the EMS steps top to bottom. Across it shows how many sessions/events and how many people were involved for each.

NE1- Kewaunee County	Number of Sessions & Trainers	Average Hours/ person/ session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	5 sessions & three trainers	9	135
On-Farm Training	1 sessions & two trainers	5	10
EMS Technical Assistance	1 sessions & three trainers	10	30
GT Application Assistance	1 sessions & two trainers	10	20
Supporting Services EMS/GT		17	17
		total expended	230

NE2- Kewaunee County	Number of Sessions & Trainers	Average Hours/ person/ session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	5 sessions & three trainers	9	135
On-Farm Training	2 sessions & two trainers	5	20
EMS Technical Assistance	2 sessions & three trainers	10	60
GT Application Assistance	1 sessions & one trainer	5	5
Supporting Services EMS/GT		17	17
		total expended	255

NE3- Kewaunee County		Number of Sessions & Trainers	Average Hours/ person/ session	Estimated Total Hours
Recruitment		2 sessions & three trainers	3	18
Group Training		5 sessions & three trainers	9	135
On-Farm Training		0 sessions & zero trainer	5	0
EMS Technical Assistance		0 sessions & zero trainer	10	0
GT Application Assistance		0 sessions & zero trainer	5	0
Supporting Services EMS/GT			5	5
total expended				158

NE4- Kewaunee County		Number of Sessions & Trainers	Average Hours/ person/ session	Estimated Total Hours
Recruitment		2 sessions & three trainers	3	18
Group Training		5 sessions & three trainers	9	135
On-Farm Training		3 sessions & two trainers	5	30
EMS Technical Assistance		0 sessions & three trainers	10	0
GT Application Assistance		0 sessions & one trainer	5	0
Supporting Services EMS/GT			14	14
total expended				197

NE5- Calumet County		Number of Sessions & Trainers	Average Hours/ person/ session	Estimated Total Hours
Recruitment		2 sessions & three trainers	3	18
Group Training		1 sessions & three trainers	9	27
On-Farm Training		0 sessions & zero trainers	5	0
EMS Technical Assistance		0 sessions & zero trainers	10	0
GT Application Assistance		0 sessions & zero trainers	5	0
Supporting Services EMS/GT			5	5
total expended				40

NE6- Calumet County		Estimated Total Hours	Average Hours/ person/ session	Number of Sessions & Trainers
Recruitment	2 sessions & three trainers	18	3	
Group Training	5 sessions & three trainers	135	9	
On-Farm Training	0 sessions & two trainers	0	5	
EMS Technical Assistance	0 sessions & two trainers	0	10	
GT Application Assistance	0 sessions & two trainers	0	10	
Supporting Services EMS/GT		5	17	
total expended		230		

NE7- Calumet County		Estimated Total Hours	Average Hours/ person/ session	Number of Sessions & Trainers
Recruitment	2 sessions & three trainers	18	3	
Group Training	1 sessions & three trainers	27	9	
On-Farm Training	0 sessions & zero trainers	0	5	
EMS Technical Assistance	0 sessions & zero trainers	0	10	
GT Application Assistance	0 sessions & zero trainers	0	5	
Supporting Services EMS/GT		5	5	
total expended		50		

NE8- Calumet County		Estimated Total Hours	Average Hours/perso n/session	Number of Sessions & Trainers
Recruitment	2 sessions & three trainers	18	3	
Group Training	5 sessions & three trainers	135	9	
On-Farm Training	0 sessions & two trainers	0	5	
EMS Technical Assistance	3 sessions & two trainers	60	10	
GT Application Assistance	0 sessions & two trainers	0	10	
Supporting Services EMS/GT		17	17	
total expended		230		

NE9- Calumet County		Average Hours/person /session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	0 sessions & three trainers	9	0
On-Farm Training	3 sessions & two trainers	5	30
EMS Technical Assistance	2 sessions & two trainers	10	40
GT Application Assistance	0 sessions & two trainers	10	0
Supporting Services EMS/GT		21	21
		total expended	109

NE10- Manitowoc County		Average Hours/person /session	Estimated Total Hours
Recruitment	1 session & three trainers	3	9
Group Training	4 sessions & two trainers	9	72
On-Farm Training	4 sessions & one trainers	5	20
EMS Technical Assistance	2 sessions & two trainers	10	40
GT Application Assistance	1 sessions & two trainers	10	20
Supporting Services EMS/GT		21	21
		total expended	182

NW1- Barron County		Average Hours/person n/session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	2 sessions & three trainers	11	66
On-Farm Training	2 sessions & two trainers	8	32
EMS Technical Assistance	2 sessions & two trainers	10	40
GT Application Assistance	0 sessions & two trainers	10	0
Supporting Services EMS/GT		17	17
		total expended	173

NW2- Barron County		Average Hours/person /session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	2 sessions & two trainers	11	44
On-Farm Training	2 sessions & two trainers	8	32
EMS Technical Assistance	0 sessions & two trainers	10	0
GT Application Assistance	0 sessions & two trainers	10	0
Supporting Services EMS/GT		19	19
		total expended	113

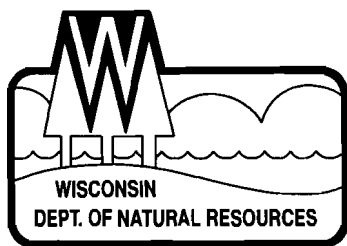
NW3- Barron County		Average Hours/pers on/session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	2 sessions & two trainers	11	44
On-Farm Training	1 sessions & two trainers	8	16
EMS Technical Assistance	0 sessions & two trainers	10	0
GT Application Assistance	0 sessions & two trainers	10	0
Supporting Services EMS/GT		12	12
		total expended	90

NW4- Pierce County		Average Hours/person /session	Estimated Total Hours
Recruitment	2 sessions & three trainers	3	18
Group Training	2 sessions & three trainers	11	66
On-Farm Training	2 sessions & two trainers	8	32
EMS Technical Assistance	2 sessions & two trainers	10	40
GT Application Assistance	0 sessions & two trainers	10	0
Supporting Services EMS/GT		17	17
		total expended	173

NW5- Barron County		Number of Sessions & Trainers	Average Hours/person /session	Estimated Total Hours
	Recruitment	3 sessions & two trainers	3	18
	Group Training	2 sessions & two trainers	11	44
	On-Farm Training	3 sessions & two trainers	8	48
	EMS Technical Assistance	3 sessions & two trainers	1.5	9
	GT Application Assistance	0 sessions & two trainers	10	0
	Supporting Services EMS/GT		12	12
			total expended	131

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Attachment A
Validus, Inc.: Addendum to Purchase Order



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
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February 12, 2010

Keri Retallick
Project Coordinator- PO NMH00001216
Validus, Inc
P.O. Box 24
Lancaster, WI 53813

Subject: Addendum to Purchase Order (PO) NMH00001216: *Delivery of Environmental Management Services (EMS) for the Dairy Sector* (i.e. RFP #H-041-08)

Dear Ms. Retallick:

As you're aware, the Wisconsin Department of Natural Resources (WDNR) purchased services in the amount of \$75,000, per the terms outlined in RFP #H-041-08, titled: "Environmental Management System (EMS) Auditing Services for the Dairy Sector" from Validus, Inc (i.e. PO NMH00001216).

As of January 25, 2010 Validus Inc billed WDNR a total of \$20,388 for services rendered. A total of \$54,612 remains available to satisfy the terms of PO NMH00001216.

Per the terms of PO NMH00001216, Objective 2(i.e. EMS Audits), Validus, Inc agreed to:

- "Upon request, provide comprehensive EMS auditing services to dairy sector businesses. In order to ensure the integrity of audits and avoid conflicts of interest, the contractor shall not be paid or held accountable based upon the number of dairy producers who *pass* an audit. Nevertheless, the contractor shall *plan for and work toward DNR's goal* of demonstrating that at least 15 Wisconsin dairy sector businesses have implemented an ISO 14001 or functionally equivalent EMS by June 30, 2010. Any audits intended to meet Green Tier program requirements must be performed by an auditor approved by DNR pursuant to s. 299.83(7m) of Wisconsin Statutes"

On November 2, 2009 Validus, Inc submitted a letter to the department requesting an addendum to the purchase order, including a grant extension. As per the terms outlined in the aforementioned PO, Section 7.3 states, "*In the event of contract award, the contents of this RFP (including all attachments), RFP addenda and revisions, and the proposal of the successful proposer, and additional terms agreed to, in writing, by the agency and the contractor shall become part of the contract*".

The purposes for the proposed changes to the PO are two-fold:

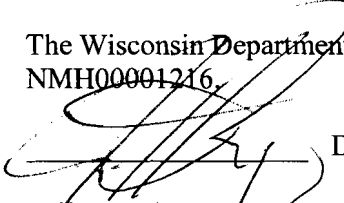
- To increase the availability of resources for on-farm EMS technical assistance and internal auditing services and also preserve EMS auditing services to dairy producers whom have completed EMS training, and
- To provide additional time to the contractor for delivery of on-farm EMS technical assistance, internal auditing services and EMS auditing.

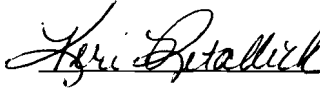
The following "additional terms shall become part of the contract," per Section 7.3 of PO, NMH00001216 as per Objectives 2"

- Extension of the contract to 6/1/2011;
- Adding three quarterly reports to cover the extended period through 3/31/2011 for an additional \$1,499.07;
- Reducing the number of total fully equivalent audits to three (3) complex audits at a rate not to exceed \$5000 per audit;
 - i.e. based on 32 hours pre-audit preparation , on-farm, post reporting, plus eight (8) hours travel, travel expenses
 - Note: If complex audits are not available, funds may be utilized towards internal audits and technical assistance.
- Eliminating the simple audit component and replacing it with an internal audit module in order to track program progress on a minimum of seven (7) operations as designated by DNR not to exceed \$4,375 per internal audit;
 - i.e. based on 20 hours pre-audit preparation, on-farm and post reporting, eight (8) hours travel, travel expenses.
 - Provide on-farm technical assistance and EMS FE readiness reviews to producers who participated in EMS training;
 - Accounting for on-farm technical assistance and EMS FE readiness review will itemize (per farm), in a format acceptable to the department, all information pertaining to the nature of the on-farm technical assistance, readiness review, internal audit services and EMS audits. This information shall be contained in all future quarterly reports and summarized in the final report submitted to the department;
 - All on-farm EMS technical assistance and EMS FE preparation will only be conducted by "Environmental Auditors," as per Wis. Stats. §299.83 (7m), or based on any supplementary communication from the WDNR concerning qualifications. Subcontractors may assist in the administration of the on-farm EMS technical assistance and EMS FE preparation, but shall not assume a primary role in the delivery of any of the services pertaining to technical assistance or EMS FE preparation;
- Final report draft due on May 1, 2011; and
- Final report due on June 1, 2011

The WDNR and Validus, Inc believe the aforementioned addendum to PO NMH00001216 is both necessary and appropriate given the lessons learned, to date, from EMS training and auditing. By securing EMS auditing services and providing supplemental services related to EMS internal auditing and technical assistance, WDNR and Validus, Inc believe dairy producers will increase the likelihood of achieving fully-implemented EMS.

The Wisconsin Department of Natural Resources and Validus, Inc hereby agree to the proposed addendum to PO NMH00001216.

 Date 2-22-10
 Jeffrey Voltz
 Project Manager, PO NMH00001066
 Wisconsin Department of Natural Resources
 101 South Webster St CO/5
 Madison, WI 53703-7921

 Date 2/15/10
 Keri Retallick
 Project Coordinator- PO NMH00001216
 Validus, Inc
 P.O. Box 24
 Lancaster, WI 53813

Attachment B
Dairy Business Association-Green Tier Advancement Project: Final Report of the
Interested Persons Group

**Dairy Business Association-Green Tier Advancement Project
Interested Persons Group Final Report
- November 2009-**

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Executive Summary

In November of 2007, the Dairy Business Association and the DNR entered an agreement (Charter) called the Dairy Business Association-Green Tier Advancement Project (DBA-GTAP). As part of this agreement, DBA-GTAP committed to establish an “interested person group” to advance the goals and increase trust and transparency in the Charter. This document summarizes the work of the IPG and final recommendations.

The IPG was established via outreach by DNR and DBA-GTAP in December of 2008 and includes representatives from: DBA-GTAP, Department of Natural Resources (DNR), Department of Agriculture, Trade and Consumer Protection (DATCP), UW-Discovery Farms, Natural Resource Conservation Service (NRCS), River Alliance of Wisconsin, Wisconsin Land and Water Conservation Association, and two Wisconsin dairy producers. A representative from Wisconsin Waterfowl Association was solicited to participate, but did not participate in any of the meetings or conference calls.

The IPG held a total of five half-day meetings in Madison, WI with the first meeting in February '09 and the final in October of '09. A professional facilitator was retained for each of the five meetings.

DNR and DBA-GTAP identified three priorities for the IPG: (1) increasing participation in the DBA-GTAP, (2) increasing environmental performance of DBA-GTAP participants, and (3) improving the financial benefit to participants who achieve superior environmental performance. The IPG reached consensus on ten (10) recommendations (summarized below) that address two of the three priority areas.

As outlined in the General Provisions of the DBA-GTAP Charter agreement (i.e. Section IX, page 10), *“This Charter may be amended only in writing by the Parties to this agreement or their successors. An Amendment of this Charter may require additional public notice after the Parties have negotiated the new language. If the Amendment will increase the number and scope of incentives or if the Amendment will materially alter the level and type of environmental performance, then DNR will provide an additional public notice and may provide a public hearing.”*

Going forward, DNR and DBA-GTAP will: jointly evaluate the ten (10) recommendations, determine which of the recommendations the Parties will pursue and establish appropriate language to satisfy the intent of the recommendations of the IPG.

IPG Recommendations:

The IPG, after a series of five face-to-face meetings and several conference calls, arrived at a series of recommendations that are principally focused on:

- Increasing participation in the DBA-GTAP,
- Increasing environmental performance of DBA-GTAP participants, and
- Improving the financial benefit to participants who achieve superior environmental performance.

The recommendations are as follows:

- 1. Allow higher ranking for applicants to the Federal Conservation Security Program (CSP), if the applicant is participating in Green Tier, and:**
 - a. Highest ranking in Environmental Quality Incentives Program (EQIP) for entering the DBA-GTAP Charter,
 - b. Priority cost share dollars for neighboring farms within ten (10) miles of DBA-Green Tier Charter member site,
 - c. Create incentive system that rewards progressive farm management
 - i. (e.g. cost sharing at 50% (NMP), 75% (CNMP), and 90% (EMS)), and
 - d. Higher ranking in EQIP for achieving Green Tier Status.
- 2. Package a progressive farm-management training program by partnering with existing training and certification programs, and existing service providers.**
 - a. **Development of farm progressive farm management training program should include, at a minimum, the following parties:**
 - i. Department of Natural Resources,
 - ii. Department of Agriculture, Trade and Consumer Protection,
 - iii. USDA-Natural Resource Conservation Service,
 - iv. Land Conservation Departments,
 - v. UW-Extension,
 - vi. Members of the Agriculture Coalition, and
 - vii. Wisconsin Land and Water Conservation Association.
 - b. **The program will:**
 - i. Make available outreach materials that outline the benefits of moving from implementation of NMP's to implementation of CNMP's and finally EMS implementation,
 - ii. Ensure outreach materials clarify what gaps exist between NMP, CNMP and EMS as well as the steps necessary to successfully make each transition,
 - iii. Encourage additional producers to pursue CNMP status, beyond permitted operations,
 - iv. Encourage farms with CNMP to move to EMS level through a public education and information campaign,
- 3. Allow Comprehensive Nutrient Management Plan (CNMP) to satisfy eligibility requirements for DBA-GTAP Tier I status. In order to be eligible, the CNMP shall, at a minimum:**

- a. Identify Natural Resource Concerns,
 - b. Be Implemented,
 - c. Be reviewed and approved by NRCS (verify implementation), and
 - d. Result in an annual report to DNR on environmental performance, utilizing as the basis for reporting "natural resource concerns" and Tier I model terms
 - i. (see Appendix 10, Model Terms for additional information, page 83).
- 4. Establish committee to review alternative and technology-based agriculture practices**
 - a. The committee includes standing members, ad hoc expert members (as needed) as well as agricultural producers,
 - b. Tier I participants eligible to approach committee for trial on a pilot basis,
 - c. Tier II participants eligible to use technologies as an alternative to permit requirements, and
 - d. The committee may entertain appropriate items identified by the IPG (i.e. items listed below: "parking lot items")
- 5. Farms participating in Green Tier and are in good standing are eligible to receive expedited permitting (i.e. top of the pile).**
- 6. Clarify and list differences between state and federal regulations, per WPDES requirements, in order to establish "roadmap/menu of options."**
- 7. Look for opportunities to provide positive press releases (i.e. at a minimum one (1) per year) about performance of Green Tier participants, both for Tier I and Tier II.**
- 8. If and when WPDES fees increase, consider reducing fee-rate for Tier I and Tier II participants,**
- 9. Explore options to provide EMS conformance audit services for Tier II participants, and**
- 10. Establish next steps for IPG (e.g. measurement and monitoring of GTAP participants)**

Parking Lot Items are as follows:

Issues for which the IPG did not make specific recommendations, but felt important enough be apart of the final report are captured below. These parking lot items include specific topics/issues that may be addressed initially by said committee (i.e. recommendation #4, above) for review and support. These items are identified with an asterisk (i.e. *).

- Evaluate whether or not and under what conditions application of manure to grass waterways/near waterways may be allowable and determine whether or not and what type of monitoring tools are available and the criteria used to determine effectiveness/benefit,*
- Incentivize state and EQIP cost-sharing to benefit farms participating in Green Tier,

- "After the fact reporting" - allowing flexible reporting mechanisms*
 - (e.g. Incorporation of new land without NMP modifications, Emergency spreading to be considered "after the fact" and allow NMP amendments to be "after the fact" reporting),
- Through NRCS, allow human waste to be added to manure pits in circumstances where an anaerobic digester is used as a part of the manure management system. (matrix 2),*
- Road ditches and culverts for hose application*
 - Discussion resulted commitment from Dave J., Laurie F, Pat M., and Julian Z to begin work on this issue),
- After issuance of General Permit Consider for conventional CAFO and AFO's, consider development of a Green Tier-specific General Permit,
- Investigate post manure products/commodities*
 - (e.g. "wood products" from manure),
- Investigate possibility of high-flotation equipment during spring road-bans,* and
- Investigate and create guidance for upsets & mechanical failures*

Appendix 1

December 2008

XXXX
 XXXXXXXXXX
 XXXX
 XXXX

Subject: Interested Persons Group- Dairy Business Association-Green Tier Advancement Project

Dear X:

Congratulations, you have been nominated to serve on the Dairy Business Association-Green Tier Advancement Project Interested Persons Group for a one-year term.

On November 27, 2008 the Wisconsin Department of Natural Resources (DNR) and the Dairy Business Association (DBA) signed a groundbreaking agreement, commonly referred to as a Charter: The Dairy Business Association- Green Tier Advancement Project (DBA-GTAP). This Charter lays the foundation for a cooperative and collaborative business relationship between Wisconsin's dairy industry, DBA and the DNR.

The primary goal of the DBA-GTAP Charter is to support beyond compliance environmental performance on Wisconsin dairy farms. To this end, both DBA-GTAP and DNR believe it is important to convene a diverse group of stakeholders (i.e. Interested Persons Group) to provide insights and recommendations to both DNR and DBA-GTAP. Specifically, the DBA-GTAP Charter established the Interested Persons Group (IPG) is charged with:

- Improving communications with non-participating stakeholders and relating to the general public (e.g. holding public workshops, promotional advertisements, etc.)
- Develop[ing] specific recommendations to further the goals of this Charter, including identifying environmental goals to which the dairy sector should aspire, and
- [Developing] ways of monitoring and measuring the environmental performance of DBA-GTAP participants

Laurie Fischer, Executive Director of DBA, and I appreciate the challenging nature of the three charges, but we also appreciate that by building a beyond compliance framework informed by a strong group of enlightened individuals we can benefit dairy producers, Wisconsin's environment and citizens alike.

The complete list of nominees was developed after several conversations between Jeffrey Voltz and Laurie Fischer and is attached for reference purposes. At present, DNR and DBA-GTAP plan to hold the first meeting of the IPG on Tuesday, December 2nd in Madison, WI at the State Natural Resource Building (i.e. GEF II building). The meeting will be held in room 526 and begin at 1pm and conclude at (or before) 4pm. See attached for a draft agenda.

DBA-GTP IPG Nominees:

Name & Affiliation	Organization
Academic/Research	
Dennis Frame	UW Discovery Farms
County Government	
Julian Zelazny	Wisconsin Land and Water Conservation Association, Inc.

Dairy Producer	
Kenn Buelow	Holsum Dairies
Karl Klessig	Saxon Homestead
Environmental Community	
Lori Grant	River Alliance of Wisconsin
Jeff Nania	Wisconsin Waterfowl Association
State Government	
Dave Jelinski	Wisconsin Department of Agriculture (DATCP)
Bruce Baker	Wisconsin DNR
Federal Government	
Don Baloun	USDA- NRCS
DBA-GTAP/DNR	
Laurie Fisher	Wisconsin DNR
Jeffrey Voltz	DBA/DBA-GTAP

Draft Agenda; First Meeting of the Interested Persons Group: Tuesday, December 2, 2008:

1:00pm-1:30pm	Green Tier and DBA-GTAP overview
1:30pm-2:00pm	Overview of current federal grants supporting charter efforts
2:00pm-2:30pm	Review of process related materials
2:30pm-4:00pm	Discussion of topics and scheduling for 2009

Please visit www.greentier.wi.gov for more information on Green Tier and the DBA-GTAP Charter.

The commitment to the IPG will require no more than four (4) business days annually for any one member (i.e. IPG will meet quarterly). The location of future meetings will be determined by the IPG members and no IPG member will incur any expense for meals or refreshments.

Please respond to Jeffrey Voltz with your decision to participate in the IPG by the close of business Friday, November 14th. If you respond to Jeffrey by email, please place "Interested Persons Group" in the subject heading.

Sincerely,

Jeffrey Voltz
Wisconsin Department of Natural Resources
GTAP
101 S Webster PO Box 7921
Madison, WI 53707-7921
Jeffrey.Voltz@wisconsin.gov
(P) 608-266-8226

Laurie Fischer
Dairy Business Association/DBA-
4039 Ponce De Leon Blvd
Oneida, WI 54155
lfischer@widba.com
(P) 920-491-9956

DBA-GTAP Interested Persons Group (final)

Name & Affiliation	Organization
Academic/Research	
Dennis Frame	UW Discovery Farms
County Government	
Julian Zelazny	Wisconsin Land and Water Conservation Association, Inc.
Dairy Producer	
Kenn Buelow	Holsum Dairies
Karl Klessig	Saxon Homestead
Environmental Community	
Lori Grant	River Alliance of Wisconsin
Jeff Nania	Wisconsin Waterfowl Association
State Government	
Dave Jelinski	Wisconsin Department of Agriculture (DATCP)
Russ Rasmussen	Wisconsin DNR
Federal Government	
Don Baloun/Pat Murphy	USDA- NRCS
DBA-GTAP/DNR	
Laurie Fisher	DBA/DBA-GTAP
Jeffrey Voltz	Wisconsin DNR
Facilitator	
Darin Harris	Justus Facilitation and Consulting

January 23, 2009

Laurie Fischer
Dairy Business Association
4039 Ponce De Leon Blvd
Oneida, WI 54155

Subject: Interested Persons Group- Dairy Business Association-Green Tier Advancement Project

Dear Laurie:

Over the course of the last year, the partnership between DBA and DNR has been strengthened by the DBA-GTAP Charter. Together, we have secured an unprecedented \$375,000 in funding to support both the administration of the Charter and provide training and auditing services to Wisconsin dairy producers. These are important accomplishments, but we must continue to find ways to strengthen our partnership in ways that can improve the bottom line for producers while at the same time improving the quality of our environment. I know we can do both.

Jeffrey Voltz, of DNR's Bureau of Cooperative Environmental Assistance, briefed me recently about the DBA-GTAP Interested Persons Group (IPG). I understand that the first meeting of the IPG will be held on February 4, 2009. I have reviewed the list of IPG members and want to congratulate you in soliciting commitments from such an able group of individuals. I believe this is exciting and capable group and I want to extend my appreciation for the leadership you have demonstrated and to those whom committed to participate and contribute.

The Charter provides a broad view of what the IPG can focus its attention on and ultimately it is your decision as to the specific charge of the IPG. I would like to request one item for the IPG to focus on: developing new Charter incentives producers would be eligible to receive from DNR as well as incentives that result in direct increases in profits or cost reductions. This request is consistent with the goal of Green Tier program: "*Advantage Business, Advantage Environment.*" I believe the insights of the IPG can go along way to help strengthen our partnership and at the same time establish a framework for recognizing superior environmental performance and improving profitability for Wisconsin dairy producers.

I would also like to request that you consider allowing me spend five-minutes with the IPG at the beginning of your first meeting on February 4th. My comments would be directed at two points:

- To thank IPG members for their commitment and contributions, and
- To emphasize the importance of completing the charge within calendar year 2009 so we are well-positioned to unveil the IPG efforts at next years DBA Business Conference.

With effective leadership and a strong commitment from the members of the IPG, I believe together we can produce a work product that helps producers' bottom line and protects the environment.

Thank you again for your leadership and consideration,
Mathew Frank
Secretary, Wisconsin Department of Natural Resources
101 S. Webster Street
Box 7921
Madison, Wisconsin 53707-7921

cc Pat Henderson- CO/8 Todd Ambs- CO/8
 Mary Ellen Vollbrecht- CO/8 Jerry Meissner- President, DBA
 Al Shea- CO/8

Appendix 2

Draft Agenda
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
February 4, 2009 1:00- 4:00 PM
GEF II Room 713

Purpose: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.

Outcome:

1. Understanding of current experiences with Green Tier in the Wisconsin dairy industry
2. Understanding of charge to group and expectations

1:00pm	<u>Welcome</u> <u>Laurie Fisher, Secretary Matt Frank</u> <ul style="list-style-type: none"> • What are we hoping to accomplish today • Introductions • Meeting Review
1:15pm	<u>Green Tier and Charter Review</u> <u>Jeffrey Voltz</u> <u>Purpose:</u> To provide a base foundation for both Green Tier and signed Charter between DNR and the Dairy Business Association
2:15pm	<u>Charge and Expectations for the Group</u> <u>Laurie, Jeffrey</u> <u>Purpose:</u> To describe the scope, boundaries and expectations for the IPG as well as basic operating guidelines.
2:30pm	<u>"On the Ground View of EMS"</u> <u>Laurie /Kenn Buelow/Karl Klessig</u> <u>Purpose:</u> To provide examples of the cost and benefits for producers to implement on-farm environmental management systems
3:15pm	<u>PG Project Management</u> <u>Darin Harris/IPG members</u> <u>Purpose:</u> To discuss and outline process that will be used by the IPG to make recommendations to DBA-GTAP including how often and where it will meet.
3:45pm	<u>Wrap-up and Closing</u> <u>Laurie Fisher, Jeffrey</u> <ul style="list-style-type: none"> ▪ Review assignments, next steps and scheduling ▪ Provide opportunities for follow-through or logistics
4:00pm	<u>Close</u>

***Materials for Reference during Meeting:**

DNR/DBA Green Tier Charter
Letter from Secretary Frank to Laurie Fisher

Charge of the Interested Persons Group

DBA-GTAP commits to establishing an Interested Persons Group (IPG) to advance the goals of the Charter and to increase transparency and trust in this Charter. The Parties will meet and confer as to the constitution and specific goals of the IPG. The Parties will also designate a representative from DBA-GTAP to Chair the IPG. Within six (6) months of signing the Charter, members of the IPG will be nominated for one (1) year terms by DBA-GTAP and DNR's designated Single Point of Contact. Final membership of the IPG shall represent a diverse range of interests, including the environmental community, and shall be jointly approved by the Parties. Within twelve (12) months of signing the Charter, the IPG shall meet for the first time.

The Parties shall encourage IPG members to bring their own resources and/or expertise to bear in finding ways to make this Charter successful. The IPG Chair shall work with IPG members to establish clear ground rules for meetings, including: respective roles and responsibilities of IPG members; types of information to be shared and standards for sharing information, including agreements on confidentiality; time-frame for completing each phase of work undertaken; methods for group decision-making and conflict resolution; and, framework for how recommendations of the IPG should be integrated into DNR and DBA-GTAP decision-making processes. The Parties shall also consider including conflict resolution techniques throughout the process, such as: facilitation, third-party mediation, or other dispute resolution techniques. The IPG shall work on improving communications with non-participating stakeholders and relating to the general public (e.g. holding public workshops, promotional advertisements, etc.). The IPG shall also develop specific recommendations to further the goals of this Charter, including identifying environmental goals to which the dairy sector should aspire and ways of monitoring and measuring the environmental performance of DBA-GTAP participants.

The IPG will meet on at least a semi-annual basis to solicit comments concerning the scope, goals, progress and accomplishments of this Charter. A representative of DBA-GTAP will take notes during these meetings. These notes will be compiled into minutes that summarize the information discussed at each meeting. IPG members will have an opportunity to suggest corrections or additions to the minutes. Once approved, a copy of the minutes will be posted on both DNR's website and on a website maintained by DBA-GTAP or DBA for public viewing.

The Parties will review the status of the IPG after one year. If DBA-GTAP has taken reasonable steps to secure input from and participation in the IPG and has been unsuccessful in generating such input and participation, the Parties may consider other options to establish a mutually agreeable process for public input.

The Parties agree that the IPG requirements of this Charter may be terminated only after both DNR and DBA-GTAP agree that (1) repeated efforts to convene the group have resulted in little or no response from members of the IPG, (2) the costs outweigh the benefits, and (3) an alternative approach for public input will generate better results.

Draft Meeting Notes
February 4, 2009 1:00- 4:00 PM
GEF II Room 713

Purposes: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability

Initial Ideas/Solutions of the IPG:

Stakeholder Engagement/Outreach

1. Working lands preserved.
2. Create Enterprise Area within which EMS training could be received/delivered by/to producers
 - a. Use EMS to tie Working Lands Initiative to Enterprise Areas
3. Find avenues for NGOs to endorse or recognize producers in program
 - a. (e.g. "Endorsements" from NGO's, Wisconsin Milk Marketing, etc...)
4. Role of peer-pressure, from within the industry, as a potential driver of performance
5. Utility of green tier sign as a tool for educating local citizen about value of EMS
 - a. Value of public relations as a driver for superior environmental performance
6. Quantifying the benefits of environmental improvements (i.e. NMP, CNMP, etc....) from a cost-savings or profitability standpoint
 - a. (e.g. showcasing that certain actions (i.e. NMP, CNMP, EMS) is of financial benefit)

Environmental Management Systems:

7. Simplify EMS requirements to results-oriented, "have-to-do items"
8. Make EMS certification fee less frequent---e.g. every other year
9. EMS consultant education (i.e. dairy producer's needs) prior to going on farms

Regulatory Flexibility:

10. Allow targeted, non-backsliding variances to participating producers with a demonstrated history of effective management
 - a. (e.g. Variance based on the technology/performance advancements, history of on-farm management)
11. Incentives that transcend the availability of funding and/or "sustainable" over-time.

Project Plan:

STEP	2/4 mtg.	3/17 mtg.	Mtg . 3	Mtg. 4
Start-up/ Foundation	Complete			
Collect data/ ID problem	Started	1. EMS/CNMP Gap 2. DNR Flexibility 3. DBIC and Market development	3. Interagency Program Integration (incl. Counties) 4. Marketplace differentiation	
Brainstorm/	Started	Continue	Continue	Finalize

Explore Solutions			
Propose/ Agree Recommendations	Begin	Continue	Finalize
Finalize Recommendations		Begin	Finalize

Next Meetings/Next Steps/Assignments:

- Contact IPG members not present for the first meeting and others for future meetings:
 - For 3/17 meeting: Contact Dairy Business Innovation Center and inquire about availability for 30-40 minute presentation on Product and Marketplace development
- Distribute Statutory Definition of Environmental Management System
- In advance of 3/17 meeting, identify proximity of CNMP to meeting statutory definition of EMS.
- Send ideas/solutions on ways to promote DNR flexibility by Feb 18th

Draft Agenda for IPG Meeting on 3/17/09:

- DBIC presentation- 25-minutes
 - Product Development and Marketplace Development
- Gap findings- 25 minutes
- Discuss DNR flexibilities- 45 minutes
- Facilitated discussion of next steps 1.25 hours

Statutory Definition (Wis. Stats. §299.83 (dg)): Environmental Management System.

“Functionally equivalent environmental management system” means an environmental management system that includes all of the following elements and any other elements that the department determines are essential elements of International Organization for Standardization standard 14001:

1. Adoption of an environmental policy that includes a commitment to compliance with environmental requirements, pollution prevention, and continual improvement in environmental performance.
2. An analysis of the environmental aspects and impacts of an entity’s activities.
3. Plans and procedures to achieve compliance with environmental requirements and to maintain that compliance.
4. Identification of all environmental requirements applicable to the entity.
5. A process for setting environmental objectives and developing appropriate action plans to meet the objectives.
6. Establishment of a structure for operational control and responsibility for environmental performance.
7. An employee training program to develop awareness of and competence to manage environmental issues.
8. A plan for taking actions to prevent environmental problems and for taking emergency response and corrective actions when environmental problems occur.
9. A communication plan for collaboration with employees, the public, and the department on the design of projects and activities to achieve continuous improvement in environmental performance.
10. Procedures for control of documents and for keeping records related to environmental performance.
11. Environmental management system audits.
12. A plan for continually improving environmental performance and provision for senior management review of the plan.

Appendix 3

DRAFT Agenda
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
March 17, 2009 1:00- 4:00 PM
GEF II, Room GO9

Purposes: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.

Outcome: 1) To develop additional recommendations for consideration

1:00 **Welcome** **Laurie Fischer, Jeffrey Voltz**

- What are we hoping to accomplish today?
- Introductions
- Meeting Review

1:15 **Product and Marketplace Development** **Jim Cisler**

Purpose: To explore how products can be recognized for superior environmental performance. The presentation and subsequent discussion will avoid issues of wholesomeness, or quality and instead focus on how to promote products produced by entities that are performing beyond minimum environmental requirements.

- DBIC will give a presentation with the following question in mind:
 - What is the process for developing a product label?
 - How does a product label recognize superior environmental performance?
- General discussion and ideas for adding to list of potential recommendations

2:00 **EMS/CNMP Gap Findings** **Don Baloun/Dennis Frame**

Purposes: To report on discussions with the subgroup regarding gap between EMS and CNMP; to offer a progression based alternative to improving the environmental performance of dairies.

- Subgroup presents a proposal on the following: How do create a system to incentivize a progression in farm management practices?

3:00 **Regulatory Flexibilities (DNR/DATCP/others)** **Jeffrey**

Purpose: To explore and provide possible recommendations for regulatory incentives that can be offered to dairies for each level of the "pyramid."

3:45 **Wrap-up and Closing** **Laurie, Jeffrey**

- Review assignments, next steps and scheduling
- Provide opportunities for follow-through or logistics

4:00 **CLOSE**

****Materials for Reference During Meeting:***
DNR/DBA Green Tier Charter
DBIC Value Added Dairy Initiative Annual Report
Green Tier Incentives List

DRAFT Notes
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
March 17, 2009 1:00- 4:00 PM

Purposes: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability

Outcome: 1) Additions to list of possible recommendations for consideration

Ideas of the IPG:

Stakeholder Engagement/Outreach

12. Working lands preserved.
13. Create Enterprise Area within which EMS training could be received/delivered by/to producers
 - a. Use EMS to tie Working Lands Initiative to Enterprise Areas
14. Find avenues for NGOs to endorse or recognize producers in program
 - a. (e.g. "Endorsements" from NGO's, Wisconsin Milk Marketing, etc...)
15. Role of peer-pressure, from within the industry, as a potential driver of performance
16. Utility of green tier sign as a tool for educating local citizen about value of EMS
 - a. Value of public relations as a driver for superior environmental performance
17. Quantifying the benefits of environmental improvements (i.e. NMP, CNMP, etc....) from a cost-savings or profitability standpoint
 - a. (e.g. showcasing that certain actions (i.e. NMP, CNMP, EMS) is of financial benefit)

Environmental Management Systems:

18. Simplify EMS requirements to results-oriented, "have-to-do items"
19. Make EMS certification fee less frequent---e.g. every other year
20. EMS consultant education (i.e. dairy producer's needs) prior to going on farms

Regulatory Flexibility:

21. Allow targeted, non-backsliding variances to participating producers with a demonstrated history of effective management
 - a. (e.g. Variance based on the technology/performance advancements, history of on-farm management)
22. Incentives that transcend the availability of funding and/or "sustainable" over-time.
23. Explore activities that are not part of traditional EMS (e.g. building bike path)
24. Make EMS training material clear, easy to read and digest
25. Create incentive system that rewards progressive farm management (cost sharing at 50, 75, 90%, regulatory flexibility)
26. Explore producers committing to progressive management system
27. Have another organization certify practices or alternatives to certification (e.g. county conservation)
28. Ask Feds. To support EMS certified farms with money and regulatory flexibility
29. Give monetary rewards for exceeding pollution/waste levels (trading system)
30. If in EMS/Green Tier then you would get a better rate for exceeding levels
31. Use planning funds from 303E, 205J

- 32. Invite broader participation to review ideas (state agencies, NGOs, legislators)
- 33. Provide general permit for EMS/Green Tier

Product and Marketplace Development

DBIC

Purpose: To explore how products can be recognized for superior environmental performance.

Highlights of discussion:

- Recognition that collecting market value data (consumer research) could/would inform value of sustainable label to consumers.
- Emphasized need to educate consumers about what superior environmental performance means
- Suggested IPG Contact Gary Zimmer, Oregon Farmers Dairy Association and Center for Food Integrity, and Bob Wills, Cedar Grove.

EMS/CNMP Gap Findings

Don Baloun/Dennis Frame

Purposes: To report on discussions with the subgroup on the performance gap between EMS and CNMP; to offer a progression based alternative to improving the environmental performance of dairies.

- See additions to ideas/solutions list: New ideas were added for regulatory flexibility starting with #13.
- Create incentive system that rewards progressive farm management (e.g. cost sharing at 50, 75, 90%, regulatory flexibility)

Regulatory Flexibilities (DNR/DATCP/others)

Jeffrey

Purpose: To explore and provide possible recommendations for regulatory incentives that can be offered to dairies for each level of the “pyramid”.

- Group reviewed DBA-GTAP Incentive ideas chart and provided analysis according to the following criteria:
 - a) General Explanation
 - b) Action (regulatory) that would be needed to put into place
 - c) Level of “pyramid” it would be associated with
 - d) Effect on permitted versus non-permitted farms
- A sub-group will finish reviewing this list (see next steps)

Updated Project Plan:

STEP	2/4 mtg.	3/17 mtg.	4/23 mtg.	Mtg. 4
Start-up/ Foundation	Complete			
Collect data/ ID problem	Started	1. Improving EMS Process 2. DNR Flexibility	3. Incentives 4. Pyramid	
Brainstorm/ Explore Solutions	Started	Continue	Continue	Finalize

Propose/ Agree Recommendations	Begin	Continue	Finalize with expanded group
Finalize Recommendations		Begin	Finalize with expanded group

Next Meetings/Next Steps/Assignments:

- Review remaining flexibilities and incentives list according to the criteria: General Explanation, Action (regulatory) that would be needed to put into place, Level of “pyramid” it would be associated with, Effect on permitted versus non-permitted farms
- Refine terms in progressive farm management (pyramid) system
- April 23th 1-4 will be the next meeting. Topics include:
 1. Description and placement of incentives in each “level” of pyramid
 2. Continue to approve recommendations
- Final Meeting (TBD in May): Invite an expanded group to review and comment on recommendations
- Add sub-group to mailing list

Appendix 4

Draft
Conceptual Framework for “Progressive Farm Management”

Energy and Environmental Assessments:

Work Group would need to compile laundry list of appropriate assessments, and provide financial or technical assistance through: UWEX, LCD, NRCS, DATCP, DNR, FOE, Dept. of Energy, EPA, and/or other agencies, private companies, non-profits, organizations. This would be first step in awareness and providing a baseline for evaluating performance, both energy and environmental, in the future. These assessments would start with informational meetings, perhaps piggybacked upon grower meetings across the state. Producers could then sign up for individual assessments that would be conducted the following year.

Benefits:

- EQIP ranking,
- Funding for retrofit for energy conservation,
- 319 funding for BMPs that address environmental assessment, pre-requisite for funding or technical assistance for ERP.

Emergency Response Plan

Based upon the Environmental Assessment, recommendation could be made on potential emergencies and responses to them.

Technical assistance: UWEX, NRCS, DATCP, DNR, LCD, local emergency responders. Process of rolling out ERP would be same as assessments, could be done on same timetable, and for those interested in doing both EAs and ERPs could occur simultaneously.

Benefits:

- Improved relations with neighbors/ regulators based on rapid and organized response to incidents, convey a sense of responsibility, concern.
- Reduce liability exposure and minimize environmental impact of an incident. May reduce or prevent fines related to spill events.
- Tool for media/public relations to refer to during and immediately following a emergency event.
- Improve safety by identifying and avoiding risks and having a prepare response strategy during a stressful situation.
- Provides consistent response actions and reporting processes to improve performance of people, equipment and response strategies.
- EQIP ranking, funding for:
 - ERP container and identification sign on pole,
 - liquid manure level marker,
 - road signage for emergency responders,
 - reduced insurance premium or lower deductible.

Winter Spreading Plan

Identify and utilize best sites for winter spreading. Have a strategy to get to remote fields as conditions allow and save most accessible sites for worst weather conditions to improved effectiveness of winter spreading operations.

Benefits:

- Improve record keeping and organize manure spreading workload.
- Minimize environmental impact while continuing necessary winter spreading.
- Basis for discussing winter spreading with regulators/ concerned neighbors or groups.
- Document alternatives that have been considered for winter spreading sites and record changes that have been made to the operation to address environmental risks.

Using the WSP to assist in Identification of environmental aspects and impacts:

With technical assistance provided by UWEX, LCD, NRCS, DATCP, DNR, FOE, Dept. of Energy, EPA, any number of other agencies, private companies, non-profits, organizations, producer would list environmental aspects on their farming operations. Many of these would come out of the assessments and response planning process. Producer could then identify any number of priority aspects, and begin process to address those priorities in the next level(s) of the pyramid.

Benefits:

- Pre-requisite for technical or financial assistance for NMP or CNMP.

Nutrient Management Plan

Address and Document

Included in the plan should be results of soil and manure sampling; yield goals; nutrient application rates; risk assessment for phosphorus transport; other requirements applicable to manure, non-point source pollution, soil condition, and air quality. Map of fields to be utilized for spreading; location of setbacks or other sensitive areas; guidance for nutrient applications on setbacks or other sensitive areas; nutrient budget for nitrogen, phosphorus, and potassium; operation and maintenance plan; other requirements per 590 standard
Provide consistent method for manure and nutrient applications.

Benefits:

- Minimize the purchase of nutrient inputs.
- Manage manure spreading costs by more effective planning (labor/fuel).
- Minimize environmental impact and demonstrate implementation of Best Agricultural Technology.
- Assess environmental risk and develop alternatives that exceed the minimum requirements to protect high risk sites.

Comprehensive Nutrient Management Plan

Action needed:

- Identify how to incorporate the recommendations developed via a CNMP so as to address required items of a functionally equivalent EMS.

Address and document:

Manure and Wastewater Handling and Storage; Land Treatment Practices; Nutrient Management; Feed Management; Other Utilization Activities. CNMPs will contain actions that address water quality criteria" for the feed production area, and land on which the manure and organic by-products will be applied. This includes addressing soil erosion to reduce the transport of nutrients within or off of a field to which manure is applied. Meet all applicable local, Tribal, State, and Federal regulations. When applicable, ensure that USEPA-NPDES or State permit requirements (i.e., minimum standards and special conditions) are addressed

Benefits:

- Assessment of conservation planning resource concerns associated with a production site(s) and a summary of alternatives available to address concerns.
- Enhanced record keeping and an organization framework to document the changes made to the site to enhance environmental performance.
- Reference for planning expansions/site improvements. Contains record that will be required to permit applications.
- Provide increased access to cost sharing programs and environmental performance payments (CSP/CtSP).
- Facilitates discussions among key decision makers to incorporate environmental performance into the management strategies of the business.

Environmental Management System

Coalescing each of the lower levels of the management pyramid into a whole-farm framework to support and document continual improvement efforts.

Benefits:

- Promotes continual review and refinement of operating strategies to streamline processes and increase productivity.
- Define leadership by primary business centers of the operation, improve internal accountability and decision making.
- Improve internal business structure and communication.

Green Tier

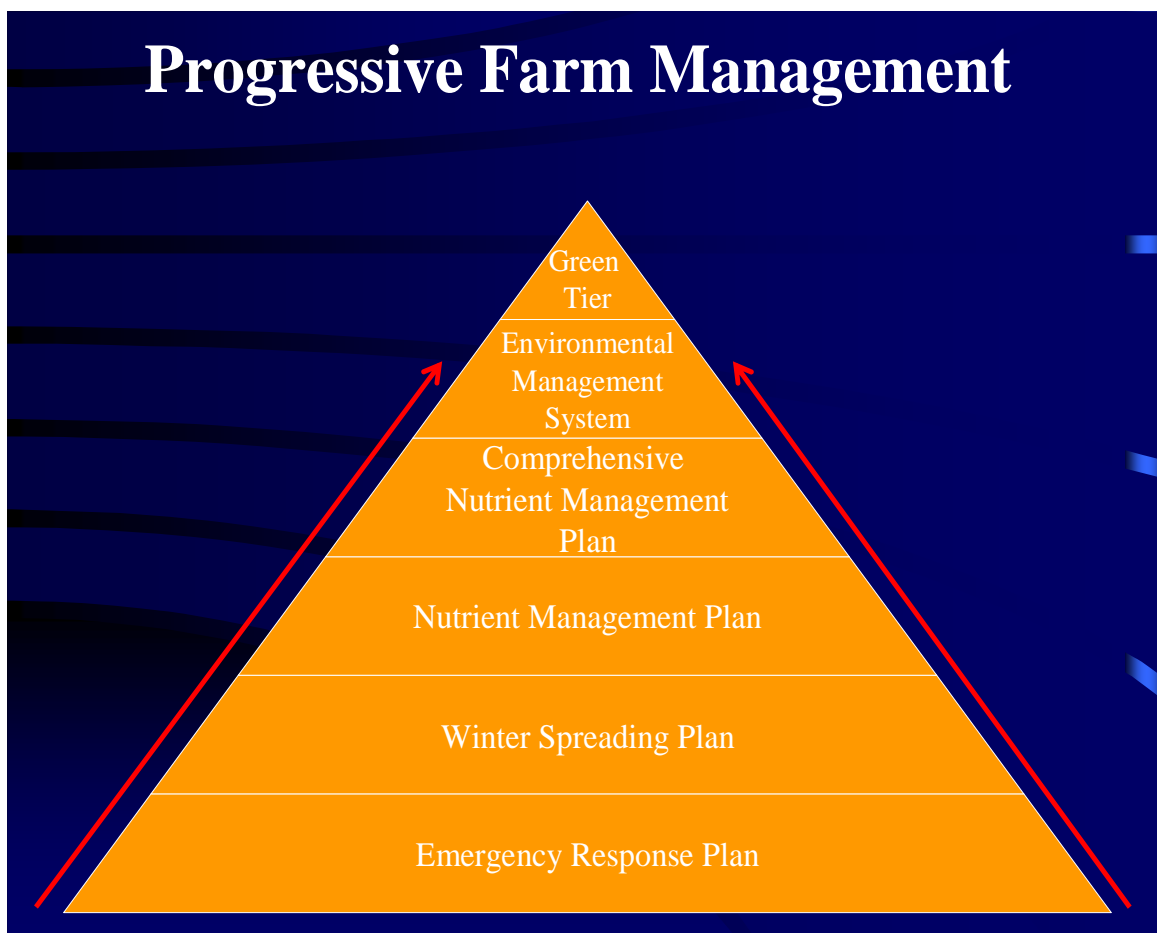
EMS includes; EMS policy statement should at a minimum describe producer's commitment to: pollution prevention, continual improvement, and compliance with environmental regulation. An EMS plan identifies and prioritizes environmental concerns, identifies options and sets measurable objectives. Implementation of your plan requires carrying out necessary operational procedures. Monitoring your operation and using the resulting records shows that environmental goals are being met. Annual review makes sure policy, plan, procedures, practices and record-keeping are on track. An independent third party assessment may also be considered to provide additional credibility. Utilizing results of the annual review, enhances performance and efficiency and continually improve the system.

Benefits:

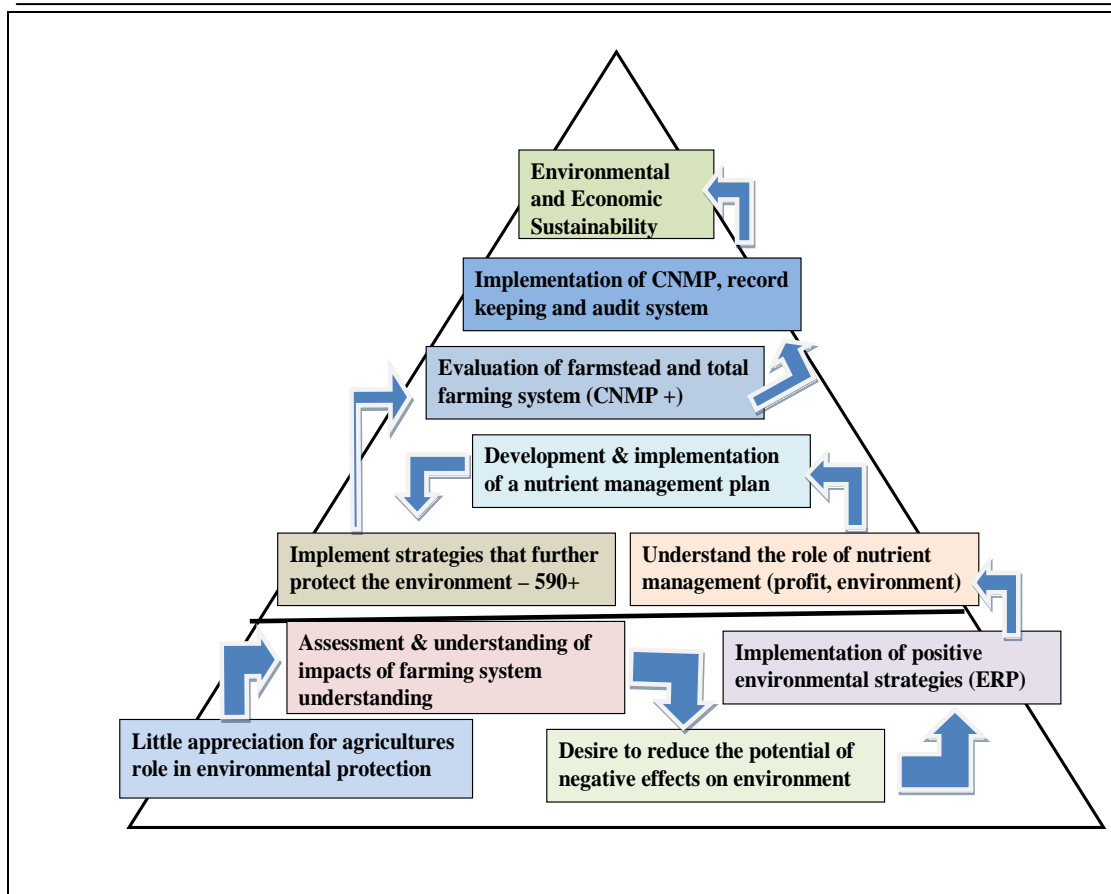
- Recognition of Superior Environmental Performance
- Opportunity for market differentiation based on environmental performance credentials.
- Greater control over the impact of environmental regulations/permitting on internal business process.
- Recognition as an environmental leader in your industry and enhanced stature to provide guidance to agencies and legislators.

- Regulatory flexibility TBD,
- Incentive or payment under Conservation Stewardship Program,
- Annual audit provided,
- Funding available for continual improvement

Progressive Farm Management Diagram- for illustration purposes only



Progressive Farm Management Process Diagram- for illustration purposes only



Appendix 5

DRAFT Agenda
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
April 23, 2009 1:00- 4:00 PM
Michael Best and Friedrich (7th floor Conference Room)

Purposes: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.

Outcome: 1) To develop additional recommendations for consideration

1:00pm **Welcome** **Laurie Fischer, Jeffrey Voltz**

- Introductions and what are we hoping to accomplish today

1:10pm **Incentives** **Jeffrey Voltz/Russ Rasmussen**

Purpose: To discuss and provide recommendations for regulatory incentives

- De-brief on the incentives list
- General discussion and ideas for how to manage the incentives in the context of the Charter

1:50pm **Progressive Farm Management** **Jeffrey Voltz**

Purposes: To discuss and capture ideas for actions beyond manure management dairy farms ought to pursue (e.g. land use and air issues)

2:30pm **Application of the Charter** **Group**

Purpose: To discuss and capture ideas on how to make the Charter effective in its application. For example, what are the advantages/disadvantages of having a Charter targeted to a geographic area (i.e. watershed or counties) as opposed to statewide? How would we do this?

Objective: To understand what option(s) presents the greatest opportunity to measure progress, both environmentally and economically, on Wisconsin dairy farms.

3:10pm **Continuing and/or Expanding the IPG Discussion with Additional Parties**

Purpose: To understand what degree of interaction with parties outside the IPG is necessary.

- Objective: to determine whether or not to engage additional parties and the suggested ideas for doing so.

3:50pm **Wrap-up and Closing** **Laurie, Jeffrey**

- Review assignments, next steps and scheduling
- Provide opportunities for follow-through or logistics
- Consider topic of new organization for next meeting agenda

4:00pm **CLOSE**

***Materials for Reference During Meeting:**

DNR/DBA Green Tier Charter

Pyramid Diagrams/List of "elective activities" from the DBA-GTAP Charter

Green Tier Incentives List

DRAFT NOTES
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
April 23, 2009 1:00- 4:00 PM
Michael Best and Friedrich (7th floor Conference Room)

Purposes: Developing new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.

Outcome: 1) To develop additional recommendations for consideration

Incentives

Purpose: To discuss and provide recommendations for regulatory incentives that can be offered to dairies for each level of the “pyramid”

During this item, the IPG:

- De-briefed the new incentives list
- Held a general discussion and ideas for adding to list of potential recommendations
- Agreed there is a basic need to make the charter appealing to producers. This so far is the biggest stumbling block.

Approved Recommendation #2:

Develop a three category process for awarding incentives that are valuable to industry.

1. *Basic incentives* could be guaranteed and automatic (with no review) while more complex ones would need to be verified.
2. *Site specific incentives* would be provided from a “menu” of options based on the specific needs and requirements of the producer.
3. *Variance based incentives* would be provided only with a more formalized and intensive review.

Approved Recommendation #3:

Charge DNR's Cooperative Environmental Assistance program (CEA) to facilitate the collection and evaluation of incentives. They collect ideas from a broad group of stakeholders and act as a clearinghouse for the development of possible incentives.

Next Steps:

1. Jeffrey:

- Will organize participants to review the current incentives list and determine which the IPG support.

2. Jeffrey:

- Will call meeting to review the incentives list

3. Laurie/Kenn:

- Will collect additions to the list.

Progressive Farm Management

Purposes: To discuss and capture ideas for actions beyond manure management dairy farms ought pursue (e.g. land use and air issues)

During this item, the IPG:

This item was tabled to another meeting.

Continuing and Expanding the Discussion with Additional Parties

Purpose: To discuss and capture ideas for introducing concepts and ideas discussed by the IPG with a broader audience.

- Objective: to identify strategies that could be shared in the form of a recommendation for how DNR and DBA should engage stakeholders in discussions of higher environmental performance and on-farm profitability

During this item, the IPG:

- Discussed adding additional parties to review the IPGs recommendations prior to submittal to DBA Board.
- Discussed the issue of measurement and environmental metrics.

(Proposed) Recommendation #4:

Make an effort to draw in and attract dairies of all sizes to incentive programs...Dave J. will redraft this recommendation by 4/29.

IPG asked how to measure the difference Green Tier is having on environment.

Tom will send examples to Jeffrey

Next Steps:

1. **Dave**
 - Will provide language for recommendation #4 by 4/29 and send to Jeffrey.
2. **Tom**
 - Will send examples to Jeffrey of environmental metrics.

Scope of the Charter/Incentives/Pyramid

Purpose: To discuss and capture ideas for whether or not and/or the extent to which the scope of the Charter should remain the same or be narrowed to a smaller geographic area (e.g. pilot counties)

During this item, the IPG:

- Discussed adjusting the scope of the Charter program
- Determined a watershed approach will be addressed by other groups, not the IPG
- This group will continue to focus its efforts on making the EMS and Charter easier for producers to accomplish rather than a full progressive farm management approach.

(Proposed) Recommendation #5:

Encourage CNMP farms to move to EMS level through a public education and information campaign.

(Proposed) Recommendation #6:

Encourage more producers to pursue CNMP status.

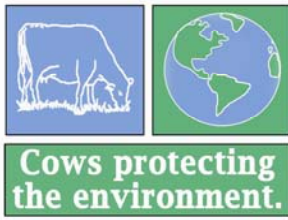
(Proposed) Recommendation #7:

A CNMP would be acceptable for attaining Tier 1 level.

Wrap-up and Closing

- Next formal IPG meeting will be held after the incentives list has been reviewed and approved at a yet to be scheduled sub-group meeting.
- It is likely that the next meeting won't be until June.

Appendix 6



Dairy Business Association

Green Tier Advancement Project

September 15, 2009

Attn: Executive Director

Subject: Dairy Business Association - Green Tier Advancement Project (DBA-GTAP)

The Dairy Business Association (DBA) and the Department of Natural Resources (DNR) developed a partnership to respond to the opportunity provided by the Green Tier Law (s. 299.83, Wis. Stats.). The Green Tier law authorizes the DNR to issue environmental Charters to an “association of entities” to assist those entities in achieving superior environmental performance and in participating within the program. Under the leadership of the DBA Board of Directors and me, DBA seized this opportunity to facilitate GTAP and provide Wisconsin dairy producers with the opportunity to achieve Green Tier status. DBA and DNR signed the “Charter” in November, 2007 and have been working diligently in partnership to make this opportunity available to WI dairy producers of all sizes.

Why?? The ultimate goals of DBA –GTAP are to:

- Build capability for dairy farmers, dairy processors and vertically integrated producer/processors in Wisconsin to participate in Green Tier;
- Assist dairy producers, processors and vertically integrated producer/processors to improve environmental performance and ultimately to achieve superior environmental performance;
- Assist dairy producers, processors and vertically integrated producer/processors to develop, implement, and successfully maintain an EMS;
- Enhance stakeholder awareness and involvement of/in agricultural production issues;
- Explore new technologies or practices that can help to improve environmental and economic performance applicable to the dairy sector;
- Enhance DNR’s understanding of dairy operations in Wisconsin and build the Parties’ mutual capacity to adapt management techniques and regulatory programs to deliver more efficient environmental performance;
- Incorporate Green Tier principles as articulated in s. 299.83(1m), Wis. Stats., into the dairy product supply chain by involving dairy producers, processors and vertically integrated producer/processors in Green Tier; and
- Enhance the added value of participation in Green Tier for dairy producers, processors and vertically integrated producer/processors in Wisconsin by providing that the Green Tier logo will only be approved for use on the label of a retail dairy product if that dairy product is made from milk produced at or from a dairy farm participating in Green Tier.

Why are we contacting you?? DBA has assembled an “Interested Persons Group” (IPG) to assist them with the implementation of GTAP. One of the focuses of this group is to develop and incorporate incentives for Green Tier so that producers will realize direct benefits to joining the Charter and incentives to achieve “superior environmental performance” within their dairy operations. Secretary Frank, DNR has specifically requested that DBA allow the IPG to “develop new Charter incentives that producers would be eligible to receive from DNR as well as incentives that result in direct increases in profits or cost reductions” to WI dairy producers.

The process being followed has captured many of the incentives inherently important too large dairies (dairies with WPDES permits). However, the IPG recognizes the need to get more input on those incentives that could appeal to dairies with less than 1000 animal units. Clearly, IPG want as many farmers as possible to participate in the Charter and meaningful incentives may help encourage their participation.

The following are some examples of incentives that the IPG is discussing as potential recommendations that might be appealing to non-permitted dairy operations:

- Additional EQIP (Environmental Quality Incentives Program) ranking points for dairy operations covered under the Charter to improve their chances for federal funding;
- Increased state and federal payment rates and /or cost share for practices that provide for superior environmental performance;

Karl Klessig, Saxon Homestead Farm has been serving as the representative to the IPG for non-permitted dairies. Both Karl and Laurie are requesting that you reach out to your membership/boards with a request to assist the IPG in identifying more incentives. The development of a more comprehensive list will assure that critical incentives will not be missed for dairies falling under the permit threshold.

Thank you in advance for your cooperation. Please forward your ideas for additional incentives by September 25, 2009 to Laurie Fischer at lfischer@widba.com.

Sincerely,

Karl Klessig
Saxon Homestead Farms

Laurie Fischer
Dairy Business Association

Appendix 7

DRAFT Agenda
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
October 26, 2009 11:00 AM- 4:00 PM
DNR GEF II Building, Room G09

- Purposes:** Finalize recommendations to incorporate new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.
- Outcomes:** 1) Finalized list of recommendations for submittal to DBA board, DNR
 2) Process for creating recommendations document and process for finalization
- 11:00 am **Lunch (please join us for a catered lunch)**
- 11:45 am **Welcome** **Laurie Fischer, Jeffrey Voltz**
- Introductions and what are we hoping to accomplish today
 - "Reorientation" to what's been done since Sept. 3 meeting
 - Guidelines, decision-making process review---Darin Harris
- 12:00 pm **Review Proposed-Approved Recommendations List** **Jeffrey Voltz**
Purpose: To inform IPG about all of the current proposed recommendations.
- 12:15 pm **Incentives Review and Proposed Recommendations** **Group**
Purpose: To discuss and approve recommendations for regulatory incentives that can be offered to dairies.
- Review and approval of incentives to include in final recommendations list
- 2:15 pm **BREAK**
- 2:30 pm ****Review, Approve and Finalize Recommendations** **Group**
Purposes: To create a final set of recommendations building from the list of proposed recommendations and incentives (10/26).
 **Secretary Frank is tentatively scheduled to join us between 3:00 & 3:15pm
- Review list of proposed/approved recommendations and reconfirm or change wording in order to approve
 - Agree on wording for incentives to be included as recommendations
 - Discuss other recommendations for approval
 - Discuss and approve process for additional or final recommendations
- 3:50 pm **Wrap-up and Closing** **Laurie, Jeffrey**
- Provide opportunities for follow-through or logistics
 - Final group check out and closing
- 4:00 pm **CLOSE**
- *Materials for Reference During Meeting:**
Proposed-Approved Recommendations (updated 10/26/09)
Green Tier Incentives List (updated 10/26/09)

Appendix 8

DRAFT Agenda
Interested Persons Group
Dairy Business Association-Green Tier Advancement Project
September 3, 2009 12:30- 4:00 PM
Risser Justice Building, Room 150A

Purposes: Finalize recommendation regarding new incentives for DBA Charter participants that both improve the quality of Wisconsin's environment and increase producer profitability.

Outcomes: 1) Finalized list of recommendations for submittal to DBA board
 2) Process for creating recommendations document and process for finalization

12:30pm **Welcome** **Laurie Fischer, Jeffrey Voltz**

- Introductions and what are we hoping to accomplish today
- "Reorientation" to what's been done so far
- Guidelines, decision-making process review---Darin Harris

12:45pm **Green Tier Update** **Jeffrey Voltz**
Purpose: To provide the latest information about status of Green Tier legislation.

1:00pm **Incentives Approval** **Group**
Purpose: To discuss and approve recommendations for regulatory incentives that can be offered to dairies.

- De-brief on the incentives list and top rated incentives
- General discussion of list and top rated incentives
- Review process for approving (deciding one) recommendations
- Approval of incentives to include in final recommendations

2:00pm **Review, Approve and Implementation of Recommendations** **Group**
Purposes: To create a final set of recommendations building from the prior list and approved incentives; to agree on a process for creating final recommendations and how the group will monitor and support implementation of recommendations.

- Review 4/23 list of recommendations and reconfirm or change wording in order to approve
- Agree on general wording for recommended incentives
- Discuss other recommendations for approval
- Discuss and approve process for additional or final recommendations

3:50pm **Wrap-up and Closing** **Laurie, Jeffrey**

- Review assignments, next steps and scheduling
- Provide opportunities for follow-through or logistics

4:00pm **CLOSE**

***Materials for Reference During Meeting:**
DNR/DBA Green Tier Charter
Notes from 4/23/09 Meeting
Green Tier Incentives List (updated 8/12/09)

Appendix 9

DBA-GTAP IPG DRAFT INCENTIVES

Rank	Incentive	authority	Nature of Request	Preliminary Response; DBA & DNR
1	With the volatile commodity markets that seem to be the norm now, we need to be able to add land to our Nutrient Management Plan during mid year, even without prior soil tests. Most new land is severely depleted of nutrients and application up to crop needs is not a risk. That land should move to the top of the list to be soil tested within the next year.	DNR	DNR currently working on how to meet Federal Requirements- will talk with NMP planner to understand what, if any, options are available.	<p><u>DBA Request (8/5/09):</u></p> <ul style="list-style-type: none"> DNR respond to how it intends to comply with new EPA requirement. <p><u>Objection raised with regard to statement:</u></p> <ul style="list-style-type: none"> "Most new land is severely depleted of nutrients and application up to crop needs is not a risk."
2	Through NRCS 313, a producer who builds a dairy facility cannot put the human waste from the restroom into the manure pit, but must build a mound or septic system which can cost over \$20,000. Allow human waste into the pit.	USDA/NRCS	Will require review by NRCS State Tech Committee	<p><u>UPDATE 8/5/09:</u></p> <ul style="list-style-type: none"> USDA NRCS Standards Oversight Committee (SOC) currently reviewing this issue. SOC may have an update as early as fall of '09. <p><u>Concern raised 8/5/09:</u></p> <ul style="list-style-type: none"> If allowed, concern over potential for human disease being transmitted to animals as unintended consequence. <p><u>Request 8/5/09:</u></p> <ul style="list-style-type: none"> Requested that DNR review NR 214 and provide a response in so far as whether or not this would/could be allowed.
3	If a manure spill should occur, have WDNR employees treat us like a business who had an accident instead of like criminals. Not every manure spill is caused by negligence. Obtain answers from producers to the following questions: What happened? How did you stop the spill? What did you do to clean it up? What steps are you going to take to prevent it from happening again? If the dairyman has adequate answers to these questions, that should be sufficient. A press release from WDNR is not necessary, counter-productive and does not enhance WDNR's reputation.	DNR	Not possible.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> There is no rule prohibiting DNR from providing this as an additional service. This incentive simply allows producers to review the press release prior to publication and have the opportunity to ask questions, make clarifying statements, and even provide valuable factual corrections. GTAP members are already operating above and beyond standards; this would be a courtesy to those producers and would help facilitate amicable working relationship between DNR and producers. DNR: please reconsider.

4	Ability to use road ditches for hose application and culverts	Wisconsin Counties	No rule change necessary- local jurisdictional issue	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> Producers may be looking to use private property or public rights of way for this purpose -- approval or authority for such activity would be very site specific. Producers should ask for <u>resource assistance from agencies to facilitate approval for use of public rights of way</u> - so producer doesn't have to hire attorney or spend months trying to figure out the process. <p><u>UPDATE 8/5/09:</u></p> <ul style="list-style-type: none"> Long-term goal identified as statewide law which would eliminate county-to-county differences and "even the playing field."
5	Allow NMP amendments to be "after the fact" reporting (rather than prior approval).	DNR	DNR would consider, but additional details/sideboards as to what qualifies necessary.	DBA working to obtain more info on what this means and what is of interest to producers
6	If manure processing machinery is installed in an approved site, no Plan & Spec or Permit Modification is necessary.	DNR	Possible with additional sideboards- additional details necessary before approval/ing.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> Seeking no P&S review and approval for any innovation involving the waste management system that includes installation of plug and play equipment within an already approved reviewable facility. Goal: promote innovation; P&S approval for these systems slows down innovation. Rosendale Dairy as an example of over-regulation slowing down implementation of innovative manure management systems.
7	Review of NR 243 and relief from requirement more stringent than federal law.	DNR	What does "more stringent" mean and it's unclear what provisions are being proposed.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> "More stringent" means anything above and beyond standards required by federal law. For example, allow GTAP members to certify no-discharge, as is allowed under federal law.
8	Highest ranking in EQIP for entering the DBA-GTAP Charter.	NRCS	DNR would/could advocate, but it's not a DNR program and would require NRCS approval/consent- unclear what the process would be.	<p><u>UPDATE 8/5/09:</u></p> <ul style="list-style-type: none"> Review process is currently underway by NRCS. Two questions being addressed: <ol style="list-style-type: none"> Can this in fact be done within the construct of current rules, Can there be assurance that this incentive would not serve as a penalty.

9	Remove restrictions on transfer of CAFO manure and allow "after the fact" reporting (NR 243.142).	DNR	DNR believes the current language is acceptable- any deviation from current language leaves producers subject to environmental prosecution. ERP's should outline what to do in the event of an emergency and would considered "defacto pre-approval".	<u>DBA Response:</u> <ul style="list-style-type: none"> This incentive was proposed to apply for all situations, not emergency situations. Specifically, producers could include in their EMS a list of potential transferees and the procedure by which a transfer would occur, then DNR would consider this "de facto pre-approval" and no other DNR approval would be required.
10	WPDES permits and P&S Reviews receive priority status in reviewing. (top of the pile)	DNR	DNR is willing to discuss further- that which can be delivered to GT farms	_____n/a_____
11	Way to Certify zero discharge by use of Best Management Practices (BMP's)	DNR	Unclear who would certify and any certification would only be momentary, not reflective of the absence of discharge at a later date/time. Additional clarification is needed.	<u>DBA Comment:</u> <ol style="list-style-type: none"> BMPs, Develop certain practices that are presumptively no-discharge; then require DNR to certify that, based on in-place BMPs, the facility is no-discharge. Goals: <ol style="list-style-type: none"> Obtain no-discharge status through BMPs, avoid problematic design changes for existing facilities; Looking for level of certainty for producers that DNR won't come back 6 months later to say, "you're still discharging; need to add xxx design element / BMP." Design Standards: <ol style="list-style-type: none"> DNR should also provide engineering justification for additional design requirements imposed for "site specific" requirements above and beyond those required in NR 243/590/313, etc.
12	Personal Individual regulatory flexibility.	DNR	This incentive already exists for Tier II facilities. Should a producer achieve Tier II of the program (i.e. GT), Wis. Stats. 299.83 (6) (a) (3) allows for individually negotiated contracts that include incentives proportional to the benefit being delivered.	<u>DBA comment:</u> <ul style="list-style-type: none"> Producers aren't willing to work toward Tier II because they're hardly able to get to Tier I because costs are high and existing incentives are low. Group: need to develop incentives that will work - appears difficult when 30 out of 35 ideas require a rule change. Consider allowing this incentive to apply for Tier I members.

13	Decrease reporting for WPDES permitted facilities.	DNR	DNR can and would consider reducing reporting, but would require additional information about what exactly is being proposed. "Reduced reporting" is far too general.	<p><u>DBA comment:</u></p> <ul style="list-style-type: none"> For example, take most recently issued WPDES permit for a large farm -Rosendale Dairy - identify reporting requirements above and beyond those required by NR 243 - eliminate those for GTAP. Another example, GTAP members only required report according to federal requirements - anything in NR 243 above and beyond federal rule does not apply. Request DNR to do comparison between federal rule reporting and NR 243 reporting.
14	Provide general permit for EMS/Green Tier	DNR	Additional information needed in so far as the objective behind this recommendation-how would this be different/more effective than a traditional GP?	<p>DBA response identified two questions</p> <ol style="list-style-type: none"> What will DNR require in an approvable EMS? If DNR approves an EMS to be implemented on-farm, that farm should be receive credit for the additional operational and procedural requirements under that EMS and be able to operate under a less burdensome General Permit. The GTAP GP would have less stringent applicability criteria and would have substantively different provisions that account for producer's responsibilities under the EMS. <p>DNR response, per question (1):</p> <ul style="list-style-type: none"> The list of "model terms" identified for Tier I and Tier II, as outlined in the DBA-GTAP Charter, serve as the foundation for what a producers' EMS should contain/be working toward, including a schedule for implementation. Tier II is the only vehicle for providing "credit" to producers, in so far as less stringent applicability criteria are concerned. <p>Proposed during 8/5/09 IPG conf call:</p> <ol style="list-style-type: none"> Delay discussions about GTAP GP until after CAFO GP is issued Keep GTAP GP proposal on the list for discussion at final facilitated-IPG meeting.

15	Higher ranking in EQIP for achieving Green Tier Status.	NRCS	DNR would/could advocate, but it's not a DNR program and would require NRCS approval/consent- unclear what the process would be.	<p><u>UPDATE 8/5/09:</u></p> <ul style="list-style-type: none"> Review process is currently underway by NRCS. Two questions being addressed: <ol style="list-style-type: none"> Can this in fact be done within the construct of current rules, and Can there be assurance that this incentive would not serve as a penalty.
16	Change ruling on sale of post manure fiber as a commodity; LEED material not manure.	Unclear which, if any, state agency has a role to play on this issue	Potential parties to engage include DNR/DATCP/UW	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> Need to understand which agency has jurisdiction (DATCP); then work to clarify, streamline, incorporate more flexibility into this regulatory process. <p><u>Issue at hand, as discussed on 8/5/09:</u></p> <ul style="list-style-type: none"> When does the definition of manure change so as to allow for sale as commodity?
17	A chance for a producer to review and submit comments on a WDNR press release if they have a manure event.		Not possible.	<p><u>IPG Request (8/5/09):</u></p> <ul style="list-style-type: none"> CNMP's require an emergency response plan (ERP), which documents what was done in the event of an emergency. Can DNR first review the CNMP and investigate whether or not the ERP was followed before issuing a press release?
18	Allow emergency spreading applications to be "after the fact" reporting (rather than prior approval).	DNR	Could possibly be deemed a spill if harmed public health or the environment- this incentive puts producers at greater risk	<p><u>DBA Response:</u></p> <ul style="list-style-type: none"> Any spreading that is considered a "spill" that harms public health or the environment would put the producer at risk for enforcement. The purpose of this incentive is to trust GTAP producers with more responsibility - trust based on operating above and beyond NR243 requirements as a GTAP member - and allow them to bypass the verbal notification, but (?) still require written notification to DNR within 5 days of emergency spreading. NR243.14 (7) (d) requires verbal notification to DNR prior to emergency winter spreading and follow up written report within 5 days. No verbal notification is required if imminent

19	ABILITY TO USE HIGH FLOTATION EQUIPMENT DURING SPRING ROAD BANS: Currently unable to haul on frozen ground; can't haul February or March; Can't haul for 6 weeks = mid May unless we have early thaw in March to get road bans on early.	Local Authority (i.e. county issue primarily)	Would require legislative action- suggested that Kevin Erb be contacted on this issue (DOT study currently underway)	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> Producers may be looking to use private property or public rights of way for this purpose -- approval or authority for such activity would be very site specific. Producers should ask for <u>resource assistance from agencies to facilitate approval for use of public rights of way</u> - so producer doesn't have to hire attorney or spend months trying to figure out the process. <p><u>UPDATE 8/5/09:</u></p> <ul style="list-style-type: none"> Long-term goal identified as statewide law which would eliminate county-to-county differences and "even the playing field."
20	Four (4) positive press releases per year from WDNR on individual DBA-Green Tier charter member	DNR	Possible	
21	Discovery Farms/University commitment to: (1) Establish Review Committee for rapid temporary approval of new technology to manage post-manure product application as pilot project (promote on-farm innovation). (2) Research application waivers (3) Verification/data of pilot projects to assess environmental and financial impact (4) Provide expertise on green house management and hydroponics for use of liquid nutrients and locally produced food sources (year round) (5) Expertise on algae production/processing (Chippewa Valley Tech College may have in-house expertise on this issue)	Would require collaboration among/between DNR/DATCP/EPA/NRCS/etc	Unclear what, if any changes (i.e. admin code/statute) would be required	<p><u>IPG Discussion 8/5/09:</u></p> <ul style="list-style-type: none"> Item for discussion at final IPG meeting. Several components that should be discussed among larger group.
22	Members in the Green Tier Charter will be exempt from all annual yearly fees.	DNR	May not be possible- fees have already been reduced and are considered minimal already.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> If annual fee is changed via rulemaking, as proposed in Budget, use the rulemaking as opportunity to insert language exempting GT members from the annual fee
23	APPLICATION ON DRY GRASS WATER WAYS -- On growing crops with <1.5% solids/dissolved Dry soil conditions (removing the incorporation requirement)	DNR/DATCP	Rule Change, NR 243, 590	<p><u>IPG Question 8/5/09:</u></p> <ul style="list-style-type: none"> In the absence of a rule change, can DNR conditionally pre-approve this incentive to Charter members whom meet Tier II requirements? Can DNR/DATCP work together to establish sideboards in which this incentive can be provided without producers having to individually request this incentive.

24	"Most Favored Nations" Treatment for all variance requests per 243.06.	DNR/DATCP/NRCS	Unclear what this means or how it would work- term "most favored nations" traditionally applies to international trade.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> • MFN is a pretty standard provision drafted into many contracts. • MFN means "I will treat you as my best customer; will always give you my best price." • Practically speaking, all GTAP submittals go to the top of the list for DNR/DATCP/NRCS review and approval.
25	Winter spreading plans for land spreading of waste	DNR/NRCS/DATCP	?	<p><u>DBA Comment:</u></p> <ol style="list-style-type: none"> 1. Non-CAFO producers would like help in understanding winter spreading prohibitions, obligations and restrictions; 2. What other waste streams are allowed to land apply in the winter? 3. DBA would like clarification as to why some wastes (municipal waste, etc) can be spread in winter, but manure can't. Would like to even the playing field for all waste management / land applicators - either ratchet down winter spreading for other waste streams or loosen the reigns on winter spreading for manure - looking for regulatory parity among operations that landspread.
26	<p>WATER TESTING REQUIREMENTS---</p> <ol style="list-style-type: none"> 1. Reduction depending on location and chemical usage, specifically organics. 2. Remove daily water check reporting. 3. Eliminate written reports on lagoon levels. 4. Remove written daily inspections of water lines. 	DNR	<ol style="list-style-type: none"> 1. Rule Change, Drinking and Groundwater Regulations. 2. Fed Requirement- EPA request for decreased reporting 3. Possible 4. Not possible, EPA requirement 	<p><u>IPG sideboard offered (8/5/09):</u></p> <ul style="list-style-type: none"> • #'s 1, 2 and 4 should only be eligible to producers whom: <ol style="list-style-type: none"> i. Do not use chemicals (i.e. herbicides/pesticides). • Comment suggested that #3 was of less importance than #'s 1, 2 and 4

27	Create incentive system that rewards progressive farm management (cost sharing at 50%, 75%, 90%, through NRCS programs for regulatory flexibility practices)	DNR/DATCP	Will require review by NRCS State Tech Committee	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> DNR, please provide additional details on this "incentive system" as it relates to cost sharing; Support this idea, would like to further discussion. Can something be done through NRCS to promote flexibility? <p><u>Response 8/5/09:</u></p> <ul style="list-style-type: none"> NRCS is currently looking into whether or not a payment rate, based on progressive farm management, can be delivered. NRCS suggested the soonest this issue would/could be addressed/available is 2010 sign-up, or 2011 sign-up.
28	WDNR to publish guidance on use of "upset" and "bypass" defense for CAFOs.	DNR	This guidance already exists- in summary, one cannot discharge unless in the event of a 25yr/24hour storm event.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> That may be true for "bypass", but the Clean Water Act provides a specific defense for "upset" - equipment/mechanical failures that result in discharge from a treatment system provided certain criteria are met - agency notification, corrective action, etc. Farmers who experience mechanical failures that result in a discharge should be able to utilize this same defense.

29	Have another organization certify practices or alternatives to certification (e.g. county conservation).	Unclear which agency would staff this position	Unclear how this proposal would work, but there are models to build from.	<p><u>DBA Comment:</u></p> <ul style="list-style-type: none"> Producers currently have access to third party auditors that can document compliance, but this can come at a significant cost to the producer. Provide option for producer to voluntarily invite county conservation/LCD to perform an independent audit to help producer document compliance at no cost to producer. Lowers cost of demonstrating compliance, provides opportunity for good PR for both producer and local authorities. <p><u>Comment 8/5/09:</u></p> <ul style="list-style-type: none"> Proposal is requesting a defacto in-house auditor to ensure costs of audits are either free or highly subsidized. Questions: can ombudsman fill this role? What are the qualifications necessary and what are the costs for obtaining necessary qualifications? DATCP/DNR should discuss and be prepared to respond at final-facilitated IPG meeting. Identified as a high priority during 8/5/09 call.
30	<p>ACCEPTING FOOD PROCESSING WASTE -- i.e. Incidental food processing waste--- School/Restaurant Grease traps reporting requirements:</p> <ul style="list-style-type: none"> Allowing addition of up to 30% by volume of substrates for anaerobic digesters without advanced approval. 	DNR	Rule Change, NR214	<p><u>IPG sideboard offered (8/5/09):</u> Eligibility for this incentive should be a function of:</p> <ol style="list-style-type: none"> An implemented NMP Sufficient manure storage (i.e. 1-year manure storage). <p>Note incentive in Section IV, C of the GTAP Charter.</p>
31	APPLICATION NEAR WATER WAYS --On harvested water ways <1.5% solids/dissolved Dry soil conditions -- Center pivot application	DNR/DATCP	Rule Change, NR 243, 590	<p><u>IPG Question 8/5/09:</u></p> <ul style="list-style-type: none"> In the absence of a rule change, can DNR conditionally pre-approve this incentive to Charter members whom meet Tier II requirements? Can DNR/DATCP work together to establish sideboards in which this incentive can be provided without producers having to individually request this incentive.

32	Priority cost share dollars for neighboring farms within ten (10) miles of DBA-Green Tier Charter member site.	DNR/NRCS/DATCP	Good idea, certainly possible, but additional details are needed about how the process would work and what parties (i.e. county/state/fed) would need to sign on.	<u>DBA Comment:</u> <ul style="list-style-type: none"> • Purpose is to help neighboring farms come into compliance. • Will help reduce runoff events and help reduce potential blaming of large farms for all runoff/contamination events.
33	<ul style="list-style-type: none"> • Plan &Spec Applications – 30 days • WPDES – 120 days • Permit Modifications – 90 days • Priority review and processing of all applications, including high cap well applications. 	DNR	Could do priority review, but the timeline isn't feasible and would very likely diminish the public's ability to participate.	<u>DBA Comment:</u> <ul style="list-style-type: none"> • Give us a feasible timeline that would apply only for GTAP members - negotiate something that will benefit producers; • Need a commitment from DNR.

Appendix 10

Charter for Environmental Performance with the Dairy Business Association-GTAP for the Wisconsin Dairy Industry

This Charter for Environmental Performance (Charter) is entered into by and between the Wisconsin Department of Natural Resources (DNR) and the Dairy Business Association-Green Tier Advancement Project (DBA-GTAP), hereinafter collectively referred to as the “Parties.”

Introduction

- A. The Environmental Results Program, s. 299.83, Wis. Stats., created by 2003 Wisconsin Act 276 (effective on May 1, 2004), commonly referred to as the Green Tier Law, authorizes DNR to issue an environmental charter to an “association of entities” to assist those entities in achieving superior environmental performance and in participating in Tier 1 or Tier 2 of the program.
- B. DBA-GTAP is a Wisconsin Corporation, organized as a 501(c)(3) tax-exempt charitable foundation. DBA-GTAP was formed and organized for, among other reasons, the purposes of entering into this Charter with DNR and to advance education, training and development of environmental management systems (EMS) and superior environmental performance at Wisconsin dairy farms and dairy processing facilities as described further herein. DBA-GTAP believes that implementing the Green Tier law through this Charter will produce environmental results beyond what is likely under existing regulatory programs.
- C. DNR is an administrative agency of the State of Wisconsin that is committed to providing a healthy and sustainable environment, to promoting the movement toward zero waste, and to protecting and enhancing the resources of the state for this generation and future generations. DNR believes that implementing the Green Tier law with DBA-GTAP through this Charter will produce environmental results beyond what is likely under existing regulatory programs.
- D. **Therefore, the Parties find that this Charter will provide for greater environmental education, protection and enhancement than would be available absent this Charter and is, by virtue of these significant benefits, in the best interest of Wisconsin and its citizens.**

Overview

- A. DBA-GTAP is committed to providing dairy producers and dairy processors that participate in Green Tier as members of this Charter with information, resources and, in certain appropriate circumstances, limited training concerning environmental management systems and innovative and effective agriculture performance practices in the pursuit of environmental protection, enhancement and conservation. The ultimate goals and objectives of this Charter have been established collaboratively with DNR and utilize the recommendations of the Dairy Business Association of Wisconsin, Inc. (DBA); the Manure Management Task Force convened by DNR and the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in 2005 and 2006; the Technical Advisory Committee formed to advise DNR with respect to the repeal and reauthorization of ch. NR 243, Wis. Admin. Code; and recommendations for superior environmental performance from DNR and DATCP programs. Together, DNR, DATCP, and representatives from the dairy industry identified key issues and continue to work together to address those issues.

- B. The goals of this Charter, in general, will be to accomplish the following:
- Build capability for dairy farmers, dairy processors and vertically integrated producer/processors in Wisconsin to participate in Green Tier;
 - Assist dairy producers, processors and vertically integrated producer/processors to improve environmental performance and ultimately to achieve superior environmental performance;
 - Assist dairy producers, processors and vertically integrated producer/processors to develop, implement, and successfully maintain an EMS;
 - Establish a mechanism to allow the use of DNR's Green Tier logo on retail dairy products as provided for and limited by this Charter;
 - Enhance stakeholder awareness and involvement of/in agricultural production issues;
 - Explore new technologies or practices that can help to improve environmental and economic performance applicable to the dairy sector;
 - Enhance DNR's understanding of dairy operations in Wisconsin and build the Parties' mutual capacity to adapt management techniques and regulatory programs to deliver more efficient environmental performance;
 - Incorporate Green Tier principles as articulated in s. 299.83(1m), Wis. Stats., into the dairy product supply chain by involving dairy producers, processors and vertically integrated producer/processors in Green Tier; and
 - Enhance the added value of participation in Green Tier for dairy producers, processors and vertically integrated producer/processors in Wisconsin by providing that the Green Tier logo will only be approved for use on the label of a retail dairy product if that dairy product is made from milk produced at or from a dairy farm participating in Green Tier.
- C. The Parties agree to create a practical and business-like cooperative initiative that encourages and supports the development of EMS for the dairy industry that can be tailored to account for regional and site specific issues for the management of process wastewaters and by-products, manure, stormwater, feed, agricultural chemicals and other issues.
- D. The Parties agree that all Charter members will implement an EMS within 12 months of their application to Tier 1 or prior to their application to Tier 2. As provided below, a generic EMS will be developed to facilitate this process. DBA-GTAP assumes no obligations beyond those expressly described herein with respect to the development and implementation of any Charter member's EMS and DBA-GTAP is not responsible for the actual implementation of a Charter member's EMS or the continued monitoring or improvement thereof. Notwithstanding anything to the contrary herein, under no circumstances shall DBA-GTAP or its directors, officers, or employees when acting in such capacity be responsible as an owner or operator, generator or arranger or otherwise in conjunction with any hazardous or deleterious substances or liability arising from or incurred in connection with a Charter member's farm, facilities or operation.
- E. By December 2009, a joint evaluation will be made by DNR and DBA-GTAP as to whether or not the program is fulfilling its objectives.

DBA-GTAP Commitments

DBA-GTAP agrees to encourage dairy producers and processors, specifically including small and medium sized farms, to submit applications for individual participation in this Charter as provided in Sections VII and VIII below. DBA-GTAP agrees to develop and implement an outreach strategy that will encourage Charter members (as defined in Section VIII below) and others to serve as "role models" and provide real-world EMS examples for interested dairy producers, processors, and vertically integrated producer/processors. DBA-GTAP also agrees to encourage Charter members to sponsor/coordinate farm tours/farm walks to learn about

EMS practicalities, provide information and presentations to other audiences (such as financial institutions, insurers, and supply chain vendors), and provide other resources or referrals so participants under this Charter can be involved in EMS research, if desired.

DBA-GTAP shall develop, or retain a vendor or vendors to develop, and promote to the extent reasonably practicable: (i) a generic EMS applicable to dairy farms of all sizes and methods of production (i.e. grazing, confined animal feeding operations, etc.), and (ii) a generic EMS applicable to the dairy processor industry, provided that at least one dairy processor becomes a Charter member. Each generic EMS will be designed such that if properly implemented and tailored at the farm or processor level they will satisfy the criteria for an EMS that is functionally equivalent to an ISO 14001 EMS as described in s. 299.83(1)(dg), Wis. Stats. The DBA-GTAP and/or the vendor(s) will consult with DNR on the development of each generic EMS and DNR will invite others to review and comment on the generic EMS during its development.

DBA-GTAP agrees to make each generic EMS available to any EMS Candidate (as defined in Section VII below). DBA-GTAP assumes no obligations beyond those expressly described herein and is not responsible for the actual implementation of a Candidate's or Charter member's EMS or the continued monitoring or improvement thereof.

DBA-GTAP agrees to create and maintain an EMS information clearinghouse for EMS Candidates and Charter members that includes: EMS development procedures, existing examples of audited environmental management systems specific to the dairy industry, easily accessible catalog of Wisconsin legal requirements, lists and contact information for Wisconsin dairy farms that have implemented an EMS, lists of suitable consultants and other suggested resources and links to useful websites.

DBA-GTAP, or its vendor or vendors, shall perform one EMS training course available to all EMS Candidates. Training courses regarding the generic EMS would be held in at least four (4) locations statewide following development of the generic EMS. DNR agrees to provide resources, to the extent possible, and will consult in the development of the training program. The training will proceed as necessary to accommodate new groups of EMS Candidates and implement new provisions of the Charter.

DBA-GTAP agrees to retain a vendor or vendors to perform audits of each Charter member's implementation of the generic EMS, provided that the Charter member pays an EMS auditing fee to assist in defraying DBA-GTAP's costs. The EMS auditor shall meet the requirements of s. 299.83(7m), Wis. Stats. The EMS auditor or DBA-GTAP staff will work with each Charter member to address all areas of non-conformance or non-compliance identified in an EMS audit. DBA-GTAP shall have no responsibility or liability for any such non-conformance or non-compliance identified as a result of an EMS audit.

DBA-GTAP will submit an annual report to DNR by January 31st of each year, beginning in 2009, summarizing the preceding calendar year's progress toward meeting the Charter's goals and objectives. Each report shall describe, at a minimum, the specific activities that DBA-GTAP has engaged in and progress toward each commitment made by DBA-GTAP in this Charter.

DNR Commitments

- A. DNR agrees that, in exchange for a Charter member's fulfillment of its obligations pursuant to this Charter, DNR will not seek nor will it request the Wisconsin Department of Justice (DOJ) to seek to bring any civil action, issue any order or seek any judgment related to the environmental responsibilities covered under this Charter against any Charter member who is in compliance with the Charter, unless DNR first discovers the violation (and not as a result of the audits conducted pursuant to this Charter) or the violation creates an imminent threat to

public health or the environment or may cause serious harm to public health or the environment. The Parties agree that this Charter does not diminish DNR's Constitutional responsibilities entrusted to it pursuant to the Public Trust Doctrine. Pursuant to s. 299.83(6m), Wis. Stats., DNR shall not initiate nor will it request DOJ to initiate a civil action if the Charter member can provide documentation or other evidence that the Charter member discovered the violation and that a response to correct the failure has been developed and will be substantially completed within 72 hours or the amount of time agreed to by the Parties.

- B. DNR shall draft a General WPDES Permit for Concentrated Animal Feeding Operations (CAFOs) by July 1, 2008. DNR shall consider input from stakeholders including DBA on the terms and conditions of this General Permit. DNR shall diligently and expeditiously pursue adoption of this General WPDES Permit for CAFOs following all statutorily required public input.
- C. Section NR 214.17(1), Wis. Admin. Code, allows industrial wastewater to be mixed with liquid manure at a volume less than 10% of the volume of the mixture at the time it is landspread. When this condition is met, DNR may grant an exemption to the industrial wastewater permittee on a case-by-case basis from the landspreading requirements of ss. NR 214.17(2), (3), (4), and (7), Wis. Admin. Code. Green Tier applicants at the Tier 2 level (only) may request that this exemption be expanded to allow the addition of industrial liquid wastes from food products processing operations to anaerobic digesters at a volume less than 30% of the total daily input volume. The applicant would be allowed to apply the materials in accordance with its nutrient management plan or WPDES permit, whichever is applicable. DNR shall include such requests in the Tier 2 participation contract, provided the application is otherwise deemed suitable for approval.
- D. DNR shall support and encourage efforts by Wisconsin dairy producers to develop environmentally-responsible renewable energy projects. By July 1, 2008, DNR shall produce a comprehensive written assessment of the environmental impacts and regulatory requirements associated with anaerobic digesters and other common or emerging waste-to-energy technologies, along with options for expediting and streamlining any environmental approvals these projects might require. At a minimum this assessment shall examine the potential applicability, feasibility and desirability of general permits, registration permits, and other processes that might expedite approval. The Parties may by mutual agreement extend the deadline for issuing this guide if necessary.
- E. DNR, working in cooperation with DBA and the U.S. Environmental Protection Agency, shall issue a guide by July 1, 2008 describing under what conditions, if any, the discharge of treated water from a CAFO to waters of the State is allowable. DNR's commitment to explore this possibility does not imply that approval will be granted via this Charter or at all. The Parties may by mutual agreement extend the deadline for issuing this guide if necessary.
- F. DNR hereby approves an ISO 14001 EMS or functionally equivalent EMS as a "best management practice for the handling of agricultural waste" (i.e., BMP) as that phrase is interpreted for the purposes of compliance with ch. NR 445, Wis. Adm. Code, with the following conditions and limitations:
 - the EMS shall only serve as an approved BMP from the date this Charter is initially signed through July 31, 2015;
 - the EMS shall be implemented by a dairy producer who is a member of this Charter;
 - the EMS shall address emissions of ammonia and hydrogen sulfide to the air as significant environmental aspects of the member's activities;
 - by July 31, 2009, the Charter member shall have implemented at least one practice identified by DNR or by Iowa's Department of Natural Resources as a practice that reduces ammonia and hydrogen sulfide emissions; and,

- the Charter member may not count the practices undertaken to reduce ammonia and hydrogen sulfide emissions as elective activities necessary to satisfy the model terms as explained in Appendices 1 and 2.

DNR shall also continue to collaborate with DATCP to identify best management practices for reducing ammonia and hydrogen sulfide emissions.

- G. DNR shall help dairy producers who wish to participate in DNR's Voluntary Emission Reduction Registry by providing forms, protocols, helpful information and by answering questions.
- H. DNR agrees to encourage membership in this Charter by providing a numbered certificate to each Charter member and providing an Environmental Results Program logo for each Charter member's use. DNR shall routinely issue a press release to the following media outlets whenever a Charter member is accepted into the Green Tier program: the local newspaper(s); The Country Today; Wisconsin Farm Report; and Agri-View. Each year thereafter, DNR shall issue press releases to the same outlets highlighting the accomplishments of Charter members. Press releases shall also be posted on DNR's website and may be posted by DBA-GTAP on the DBA-GTAP website should they choose to do so. Upon request by DBA-GTAP, a DNR representative shall highlight the environmental leadership of Charter members by making presentations or providing fact sheets and display materials at DBA-GTAP meetings. DNR shall also collaborate with Charter members or representatives of DBA-GTAP to give joint presentations on this Charter at other venues.
- I. DNR shall promote this Charter with Natural Resources Conservation Service, County Soil and Water Conservation Departments, Farm Service Agency, U.S. Environmental Protection Agency (USEPA), DATCP, and other agencies impacting agriculture and shall work promptly to seek grant or cost-share funding to assist DBA-GTAP in accomplishing the goals of this Charter. DNR shall allocate a portion of the USEPA State Innovation Grant awarded in September 2007 for these purposes.
- J. DNR shall establish a clearinghouse concerning state or federal regulatory developments impacting EMS programs on dairy farms and dairy processors and shall provide DBA-GTAP with progress reports on all such developments.
- K. For the life of this Charter, a DNR employee from the Bureau of Cooperative Environmental Assistance shall oversee and coordinate all aspects of this Charter and have lead responsibility for ensuring that DNR meets all of its commitments and responsibilities herein. In addition, DNR shall assign to each Charter member a DNR employee who is acceptable to the Charter member to serve as their Single Point of Contact concerning any communications related to participation in Green Tier, for any DNR approvals that the Charter member is required to obtain, and for technical assistance.
- L. As a way to encourage participants to move toward Tier 2 status, DNR shall seek to develop participation contracts that provide for improved environmental results and public benefits, greater regulatory flexibility, increased opportunities for permit equivalency assessments and processes, and reduced inspection frequency. DNR shall also seek to expand any existing certification programs that would allow professionals to make certain final determinations for Tier 2 participants that are normally made by DNR staff.
- M. DNR shall remain an active participant in the Agricultural Watershed Improvement Network (originally called the "Dairy Gateway") for the Lakeshore Basin of northeast Wisconsin. DNR shall support and contribute to this and other voluntary environmental initiatives relevant to dairy producers and processors, including other watershed-focused projects, as appropriate and as practicable. DNR shall work actively to build upon and replicate the results of all such initiatives.

Joint Commitments of the Parties

- A. The Parties acknowledge that DNR and USEPA have entered into a Memorandum of Understanding (MOU) endorsing the Green Tier program and the policies it implements. Any violation that results in federal prosecution pursuant to a federal law will be addressed outside the requirements of this Charter. However, the Parties will encourage federal prosecutors to consider the provisions of this Charter in making any charging decision and in the selection of a remedy.
- B. The Parties shall work to encourage the implementation of at least one ISO 14001 registration by a Wisconsin dairy producer.
- C. The Parties agree that environmental technology continues to evolve. The Parties agree to work cooperatively to encourage the development and use of new technologies; however, this cooperation and encouragement shall not constitute or be construed to be an endorsement of any technology or technology provider. The entities of the association will seek opportunities to use new technologies and methods that they or their representatives find or develop to advance the goals of this Charter. The entities shall contact DNR and DBA-GTAP and provide an overview of the methods to be used before installing or using the new technology or methods.
- D. The Parties will work cooperatively to engage and educate other state and local agencies and institutions about potential opportunities and partnerships (e.g., to increase recycling of agricultural plastics) under specific terms of the Charter and the Green Tier program. DBA-GTAP commits to meet with local governmental units and their representatives and explain the purpose and benefits of the Charter. Such meetings may occur in person or via teleconference.
- E. The Parties agree that the terms of this Charter will be reconsidered and may be amended pursuant to Section IX.C. hereof, upon changes within: (1) current statutes or regulations that apply to the dairy industry, (2) discoveries in science that would or may influence, alter or redefine what superior environmental performance is for the dairy industry of Wisconsin, and (3) evidence from case-studies, research, or otherwise which indicate new or innovative methods to achieve improved environmental performance. The Parties agree that this Charter shall have no effect on nor shall the Parties cite to the existence or content of this Charter in the context of any action involving a challenge to or defense asserted pursuant to s. 823.08, Wis. Stats.
- F. The Parties shall work with the Wisconsin Milk Marketing Board and other entities to assist in promoting the dairy industry's environmental stewardship in this Charter. The Parties shall work with other state agencies (e.g., DATCP and Commerce) as appropriate to develop market incentives that can be leveraged by Charter members.
- G. Green Tier participants are routinely authorized to use the Green Tier logo on written materials in accordance with guidelines developed by DNR. As of the initial date of this Charter, DNR's guidelines did *not* explicitly authorize use of the logo on *retail products*. However, notwithstanding those guidelines, under the terms of this Charter DNR and DBA-GTAP agree to collaborate on a pilot program as described in Appendix 5 that will test the value and appropriateness of applying the Green Tier logo to labels on retail dairy products.
- H. The Parties shall work together to identify appropriate performance indicators for individual Charter members and for the Charter as a whole. In doing so, the Parties shall give due consideration to any recommendations developed by the Interested Persons Group described below. Individual Charter members will be strongly encouraged to monitor their performance

using the identified indicators for individual participants. DBA-GTAP shall strive to make use of the performance indicators for the Charter as a whole in the annual reports described in Section III.G. DNR and DBA-GTAP shall also use these indicators as part of the joint evaluation described in Section II.E.

Interested Persons Group

- A. DBA-GTAP commits to establishing an Interested Persons Group (IPG) to advance the goals of the Charter and to increase transparency and trust in this Charter. The Parties will meet and confer as to the constitution and specific goals of the IPG. The Parties will also designate a representative from DBA-GTAP to Chair the IPG. Within six (6) months of signing the Charter, members of the IPG will be nominated for one (1) year terms by DBA-GTAP and DNR's designated Single Point of Contact. Final membership of the IPG shall represent a diverse range of interests, including the environmental community, and shall be jointly approved by the Parties. Within twelve (12) months of signing the Charter, the IPG shall meet for the first time.
- B. The Parties shall encourage IPG members to bring their own resources and/or expertise to bear in finding ways to make this Charter successful. The IPG Chair shall work with IPG members to establish clear ground rules for meetings, including: respective roles and responsibilities of IPG members; types of information to be shared and standards for sharing information, including agreements on confidentiality; time-frame for completing each phase of work undertaken; methods for group decision-making and conflict resolution; and, framework for how recommendations of the IPG should be integrated into DNR and DBA-GTAP decision-making processes. The Parties shall also consider including conflict resolution techniques throughout the process, such as: facilitation, third-party mediation, or other dispute resolution techniques. The IPG shall work on improving communications with non-participating stakeholders and relating to the general public (e.g. holding public workshops, promotional advertisements, etc.). The IPG shall also develop specific recommendations to further the goals of this Charter, including identifying environmental goals to which the dairy sector should aspire and ways of monitoring and measuring the environmental performance of DBA-GTAP participants.
- C. The IPG will meet on at least a semi-annual basis to solicit comments concerning the scope, goals, progress and accomplishments of this Charter. A representative of DBA-GTAP will take notes during these meetings. These notes will be compiled into minutes that summarize the information discussed at each meeting. IPG members will have an opportunity to suggest corrections or additions to the minutes. Once approved, a copy of the minutes will be posted on both DNR's website and on a website maintained by DBA-GTAP or DBA for public viewing.
- D. The Parties will review the status of the IPG after one year. If DBA-GTAP has taken reasonable steps to secure input from and participation in the IPG and has been unsuccessful in generating such input and participation, the Parties may consider other options to establish a mutually agreeable process for public input.
- E. The Parties agree that the IPG requirements of this Charter may be terminated only after both DNR and DBA-GTAP agree that (1) repeated efforts to convene the group have resulted in little or no response from members of the IPG, (2) the costs outweigh the benefits, and (3) an alternative approach for public input will generate better results.

Individual Participation as an EMS Candidate

- A. **Application Process:** To apply for EMS training, an interested dairy producer or dairy processor must do all of the following:

- i. Review the schedule for DBA-GTAP sponsored EMS training courses and ensure that attendance at all course sessions will be possible.
 - ii. Fill out a registration form that shall include a commitment by the applicant to attend all training course sessions and to take a survey at the beginning and end of the EMS training. Applicants must also state their good-faith intention to apply for Green Tier within 18 months of the first session.
 - iii. Pay a registration fee to DBA-GTAP to cover the costs of the EMS training. The amount of the fee will be specified in the EMS training schedule published by DBA-GTAP. The amount may vary based upon the availability of supplemental funds (e.g., federal grants) but shall not exceed \$500.
 - iv. Send the registration form and payment to DBA-GTAP at 4039 Ponce De Leon Boulevard, Oneida, WI 54155.
- B. **Approval of Applications:** The number of spaces available in each EMS training course will by necessity be limited. DBA-GTAP shall accept applications for each course on a first-come, first-served basis until all available spaces are taken. DBA-GTAP shall promptly notify applicants whether their application has been accepted and shall return the registration fee if an application is rejected for any reason. If space is not available for a requested course, DBA-GTAP shall give the applicant priority if they wish to register for a future course.
- C. **Benefits Available:** EMS Candidates whose applications are accepted by DBA-GTAP will also receive all of the following benefits:
- i. Invitations to any farm tours or farm walks sponsored by the “role models” described in Section III.A. of this Charter.
 - ii. Access to and permission to make use of the generic EMS described in Section III.B. of this Charter.
 - iii. Access to the EMS information clearinghouse described in Section III.D. of this Charter.
 - iv. Access to an EMS training course as described in Section III.E. of this Charter.
 - v. Limited assistance with preparing a Green Tier application.

Individual Participation as a Charter Member

- A. **Application Process:** Dairy producers and dairy processors that wish to reap all of the specific benefits of this Charter may apply to become Charter members. To apply for Charter membership, an interested dairy producer or dairy processor must do all of the following:
- i. Complete an EMS training course and make significant progress toward implementing an EMS.
 - ii. Carefully review the Model Terms for participation described in Appendices 1 and 2 of this Charter.
 - iii. Complete a Green Tier application form. In the Environmental Performance portion of the form, commit to abide by the Model Terms for the appropriate Tier as described in Appendix 1 or 2 of this Charter. The Green Tier application form may change over time but the most current version of the form and instructions will always be available from

DNR's website at <http://greentier.wi.gov/>. Applicants for Tier 2 of Green Tier must also write a Letter of Intent, as explained in the application instructions.

- iv. Pay an application fee to DBA-GTAP. The full amount of this fee will be used by DBA-GTAP to defray DBA-GTAP's expenses in fulfilling commitments made in this Charter. DNR does not impose a fee for Green Tier applications and will receive none of this money under any circumstances. The amount of the fee will be specified by DBA-GTAP and may vary based upon the availability of supplemental funds (e.g., federal grants), but shall not exceed \$500.
 - v. Send a written request for Charter membership and the application fee, along with a complete Green Tier application, to DBA-GTAP at 4039 Ponce De Leon Boulevard, Oneida, WI 54155.
- B. **Review Process for Applications:** The Parties shall review each application for Charter membership as follows:
- i. DBA-GTAP will preliminarily determine whether the applicant has demonstrated a willingness and ability to abide by the Model Terms described in this Charter. Applicants who are unable or unwilling to abide by the Model Terms of this Charter may still be eligible for Green Tier and may apply independently, but will not be approved as Charter members.
 - ii. If DBA-GTAP believes the applicant has demonstrated a willingness and ability to abide by the Model Terms, their Green Tier application will be handed over to DNR for processing. DNR will follow standard procedures for reviewing Green Tier applications as prescribed in Wisconsin Statutes and described on DNR's website. These standard procedures include a review of the completeness of the application and a determination of whether the applicant meets all statutory eligibility requirements for Green Tier. For Tier 1 applications, this is followed by a formal public notice process. For Tier 2 applications, there is a formal public notice regarding the Letter of Intent, followed by negotiations on the specific terms of a proposed participation contract and a second formal public notice regarding the proposed participation contract. DNR will prepare and submit to DBA-GTAP a draft version of each public notice before arranging for publication of the notice in the proper newspaper.
 - iii. The Green Tier statute gives DNR discretion and authority to hold a public informational meeting after providing public notice on any Tier 1 application, Tier 2 letter of intent, or proposed Tier 2 participation contract. DNR shall consult with DBA-GTAP before making any decisions regarding public informational meetings and shall invite DBA-GTAP to participate in any such meetings.
 - iv. Upon request, DNR shall authorize DBA-GTAP to participate in negotiations on the terms of any Tier 2 participation contract, pursuant to s. 299.83(6)(e), Wis. Stats.
- C. **Approval of Applications:** By statute, DNR retains the ultimate authority in deciding whether to approve or deny an application for participation in Green Tier. DNR may deny an application if the provisions of s. 299.83, Wis. Stats. have not been met or if approving the application would adversely affect the integrity of the Green Tier program. If DNR approves the Green Tier application, DBA-GTAP and DNR must both agree before Charter membership is granted to any Green Tier participant. The Parties shall grant Charter membership by sending written notification to the applicant. DBA-GTAP shall refund the full amount of the application fee if the application for Charter membership is rejected by the Parties or if the application for Green Tier is denied by DNR.

- D. **Grandfather Clause:** Dairy producers who were already participating in Green Tier at the time this Charter took effect may apply for Charter membership by the following streamlined process:
- i. Carefully review the Model Terms for participation described in Appendices 1 and 2 of this Charter.
 - ii. Send a written request for Charter membership to DBA-GTAP at 4039 Ponce De Leon Boulevard, Oneida, WI 54155. In the written request, commit to abide by the Model Terms for the appropriate Tier as described in Appendix 1 or 2 of this Charter.
 - iii. DBA-GTAP and DNR must both agree before Charter membership is granted to any Green Tier participant. The Parties shall grant Charter membership by sending written notification to the applicant.
- E. **Ongoing Responsibilities of Charter Members:** Charter members shall commit to doing all of the following in order to maintain membership and continue receiving the benefits of this Charter:
- i. Pay an annual membership fee to DBA-GTAP to assist in defraying the costs to DBA-GTAP for delivering the services hereunder. The amount of the fee will be specified by DBA-GTAP and may vary based upon the availability of supplemental funds (e.g., federal grants), but shall not exceed \$500.
 - ii. If any Charter member is required to report to DNR pursuant to any environmental requirement, including federal and state laws and rules, the content of the report will also be provided to DBA-GTAP.
 - iii. Charter members shall annually conduct or have another person conduct an audit of their EMS in accordance with s. 299.83, Wis. Stats. At the Tier 1 level, every third audit must be performed by an outside environmental auditor approved by DNR. At the Tier 2 level, all such audits must be performed by an outside environmental auditor approved by DNR. Charter members may take advantage of the audit services described in Section III.F. of this Charter or make other arrangements, but the annual audit must be completed. If the Charter member wishes to take advantage of the audit services described in Section III.F., the Charter member shall pay an auditing fee to DBA-GTAP in an amount not to exceed \$2,500.
 - iv. Charter members shall submit annual reports required pursuant to s. 299.83(3)(d)4.-5., Wis. Stats. (for Tier 1) or s. 299.83(5)(c)2.-3., Wis. Stats. (for Tier 2) to the Parties. Every Charter member will be asked to report on a generic suite of performance indicators developed for all Green Tier participants. The list of generic indicators may change over time but will be clearly specified in each Charter member's Tier 1 acceptance letter or Tier 2 participation contract. Some of the generic indicators will not be relevant in every case and Charter members will not be asked to report on any irrelevant indicators.
 - v. A Charter member may be eligible for deferred civil enforcement in the event that the Charter member discovers a violation of an environmental requirement and submits a compliance report in accordance with s. 299.83(6m), Wis. Stats. In such cases, the Charter member shall send a copy of the compliance report to the Parties, and DNR shall copy DBA-GTAP on any non-confidential related correspondence with the Charter member.

- vi. Charter members will be responsible for abiding by any additional requirements specified in the Tier 1 acceptance letter issued to them by DNR or the Tier 2 participation contract signed by DNR and the Charter member.
- F. **Expulsion:** DNR may terminate or suspend Green Tier participation in certain noncompliance circumstances as outlined in s. 299.83(7), Wis. Stats. DNR shall consult with DBA-GTAP in all deliberations related to termination or suspension of a Charter member, but DNR shall retain the ultimate authority to decide if and when such an action is necessary. DBA-GTAP may revoke Charter membership if a member fails to comply with procedural or substantive requirements of this Charter or their EMS. In such circumstances DNR shall then expeditiously review whether the ex-member may remain in Green Tier without receiving the specific benefits of Charter membership, or whether their Green Tier participation should be completely terminated or suspended. Once a participant is expelled from participation in Green Tier, they shall submit to DNR, within 30 days of their expulsion, completed applications and other required paperwork to apply for any permits or approvals that may have been previously replaced by a Tier 2 participation contract. Until such time as DNR issues the necessary permits, any participant that has been expelled from Green Tier will continue to operate under the terms of the Tier 2 participation contract. However, for such participants, DNR shall oversee their operations in lieu of DBA-GTAP.

General Provisions

- A. **Interpretation:** Wisconsin Law will govern the interpretation of this Charter.
- B. **Severability:** All Agreements and covenants contained herein are severable, and in the event any of them shall be held invalid by any court of competent jurisdiction, this Charter shall be interpreted as if such invalid agreements or covenants were not contained herein. However, either of the Parties shall have the right to terminate this agreement following the severing of any portion of this agreement.
- C. **Amendment:** This Charter may be amended only in writing by the Parties to this agreement or their successors. An Amendment of this Charter may require additional public notice after the Parties have negotiated the new language. If the Amendment will increase the number and scope of incentives or if the Amendment will materially alter the level and type of environmental performance, then DNR will provide an additional public notice and may provide a public hearing.
- D. **Construction:** This Charter will be binding on the Parties and their respective successors and assigns, and is not intended to confer any rights or remedies upon any other persons. Except as otherwise provided in this Charter, nothing herein shall be construed to impose a duty on DBA-GTAP to make any additional agreements with, or concessions to, any other governmental or regulatory body.
- E. **Access to records:** For the purposes of interpreting, understanding, or securing compliance with this Charter, and subject to any legally recognized privileges, such as the attorney-client privilege, the attorney work-product doctrine, and the rights secured by the Fourth, Fifth and Fourteen Amendments of the U.S. Constitution, and reasonable notice, DNR: (1) will be permitted access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents that are directly related to the Charter in the possession or under the control of DBA-GTAP; and (2) may interview directors, officers, employees, and agents of DBA-GTAP regarding matters directly related to the Charter. All such requests for access to records or people concerning DBA-GTAP shall be provided concurrently to DBA-GTAP's legal counsel.

- F. **Effective Date:** After completion of the public notice and public hearing process, this Charter shall become effective upon signature by both of the Parties.
- G. **Termination:** If DBA-GTAP fails to fulfill its obligations under this Charter in a timely or proper manner, or violates any of its provisions, DNR shall have the right to terminate this Charter by giving 60 days' written notice of termination, specifying the alleged violations and the effective date of the termination. It shall not be terminated if upon receipt of the notice DBA-GTAP promptly cures the alleged violation prior to the end of the 60-day period. DBA-GTAP reserves the right to appeal any decision of DNR pursuant to this paragraph as provided for in s. 227.52, Wis. Stats., or any other applicable law.

If DNR fails to fulfill its obligations under this Charter in a timely or proper manner, or violates any of its provisions or should DBA-GTAP be unable or unwilling to fulfill its obligations hereunder, DBA-GTAP shall have the right to terminate this Charter by giving 60 days' written notice of termination, specifying the alleged violations and the effective date of the termination. It shall not be terminated if, upon the receipt of the notice, DNR promptly cures the alleged violation prior to the end of the 60-day period.

If this Charter is terminated by either of the Parties, DNR shall provide a reasonable time, not to exceed 120 days, for any entity that was a member at the time the Charter was terminated, and that requires a permit, license or other approval from DNR in the absence of the Charter, to complete and file the necessary paperwork to apply for the required permit, license or other approval. If the former member qualifies for the permit, license or other approval, DNR agrees to issue the approval within 90 days of completing any public notice, public comment or public hearing process, unless an extension of time is requested. The former member may continue to operate in compliance with the conditions that were previously required under the Charter and their participation agreement pending final DNR action on the application for a permit, license, or other approval. However, during this time, no former member may seek protection under the Charter or existing law for any activity that causes harm to public health or the environment or that presents an imminent threat to public health or the environment.

- H. **Term of Charter and Action Period:** This Charter will remain in effect for ten (10) years after its effective date unless either of the Parties terminates this Charter under the provisions of Section IX.G. The Charter may be extended for periods of up to ten (10) years with the written approval of the Parties.
- I. **Identifying Point of Contact:** The Parties agree to provide a point of contact within their respective organizations for this Charter. That point of contact shall be identified by letter, and if the point of contact changes, a new point of contact shall be identified by letter.
- J. **Future Effect:** The contract does not bind future legislatures and their actions or resource allocations pertaining to DNR.
- K. **Warranty of Authority:** Each of the persons signing below represents and warrants that he/she has authority to execute this Charter on behalf of the Party for which he/she signs.

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Appendix 1 - Model Terms for Green Tier Participation at the Tier 1 Level

The purpose of this Appendix is to describe “model terms” for Green Tier participation so prospective Charter members will better understand what is expected of them and what they can expect from DNR.

Expectations

Dairy producers who wish to participate in Green Tier as members of this Charter shall undertake a combination of core activities and elective activities. Every Tier 1 Charter member shall undertake all of the core activities listed below. In addition, every Tier 1 Charter member shall also undertake three additional elective activities of their choosing. Both parts, the core activities and the elective activities, are required parts of the model terms and are explained in greater detail below.

Tier 1 Core Activities

Green Tier applicants at the Tier 1 level must submit with their Green Tier application **plans for activities that enhance the environment, with a schedule for implementation**. Charter members who participate at the Tier 1 level shall commit to undertake all of the following core activities:

- A. No surface application of liquid manure (equal to or less than 12% solids) on snow-covered or frozen ground except in compliance with Appendix 3;
- B. Manure handling training procedures that will prevent and minimize entry of manure into waters of the state;
- C. Emergency response plans that include the content described in s. NR 243.13(6)(b), Wis. Adm. Code to prevent, contain and clean up spills and overflows of any material that could have significant environmental impacts;
- D. Compliance with NR 151 Agricultural Standards and Prohibitions;
- E. No application of manure within 100 feet of private water supply wells and within 1000 feet of community and municipal water supply wells;
- F. Compliance with performance matrix when spreading solid manure (see Appendix 4);
- G. Identify drain tile outfalls and develop plans to minimize drainage of manure to waters of the state;
- H. Cancelled or unwanted farm chemicals shall be disposed through a local county Clean Sweep program or through DATCP's Clean Sweep Program manager if a local program does not exist; and,
- I. No open burning or burial of garbage or refuse at any time. No open burning of other materials (e.g., leaves) when a DNR-issued Air Quality Advisory is in effect.

NOTE: Most of the Tier 1 core activities are included as basic compliance requirements in WPDES permits issued by DNR to those dairy producers that are required to have a permit. In those cases, the Charter member must also continue to comply with all of the specific requirements of their permit. This Charter does not by itself reduce or waive any of the compliance requirements applicable to any dairy producer.

Tier 1 Elective Activities

In addition to the core activities described above, Charter members shall commit to undertake at least three elective activities of their choosing. These elective activities must be specified in the Green Tier application as part of the applicant's plans for activities that enhance the environment, along with a schedule for implementation.

All elective activities selected by the prospective Charter member should address a significant environmental aspect that has been identified by the Charter member via their EMS.

In *every* case, the Charter member shall choose elective activities that go beyond minimum compliance requirements, i.e. activities they are not otherwise required (e.g. by permit or local ordinance) to undertake. Members may, however, choose as an elective activity to go “beyond compliance” in an area where they are regulated (e.g., establishing buffer zones that are larger than required for compliance). Members cannot satisfy the model terms by choosing elective activities that are compliance requirements.

Finally, when selecting elective activities Charter members should be aware that the Green Tier program requires every participant to include objectives in their EMS that address at least two of the following three areas:

- Improving their environmental performance with respect to aspects regulated by DNR;
- Improving their environmental performance with respect to aspects not regulated by DNR; and,
- Voluntarily restoring, enhancing, or preserving natural resources.

DNR shall maintain on its website a list of examples of elective activities appropriate for each of these three areas so prospective Charter members can better understand their options. The list will not be exhaustive. Charter members will have the freedom to make use of the listed examples or to develop their own ideas for elective activities.

Tier 1 Incentives

Charter members participating at the Tier 1 level shall receive the following incentives:

- A. Numbered certificate of recognition;
- B. Publicity as specified in Section IV.H. of this Charter;
- C. Use of Green Tier/Environmental Excellence logo as specified in the participant's Letter of Tier 1 Acceptance and in Appendix 5 of this Charter;
- D. Assignment of a DNR employee acceptable to the participant as their Single Point of Contact within DNR for Green Tier communications, DNR regulatory approvals, and technical assistance;
- E. Minimum inspection frequencies as specified in s. 299.83(4m)(f), Wis. Stats.;
- F. Eligibility for deferred civil enforcement as specified in s. 299.83(6m), Wis. Stats.; and
- G. All other benefits of this Charter generally and as specified in Sections III, IV, and V of this Charter.

Appendix 2 - Model Terms for Green Tier Participation at the Tier 2 Level

The purpose of this Appendix is to describe “model terms” for Green Tier participation so prospective Charter members will better understand what is expected of them and what they can expect from DNR.

Expectations

Dairy producers who wish to participate in Green Tier as members of this Charter shall undertake a combination of core activities and elective activities. Every Tier 2 Charter member shall undertake all of the core activities listed below. In addition, every Tier 2 Charter member shall also undertake three additional elective activities of their choosing. Both parts, the core activities and the elective activities, are required parts of the model terms and are explained in greater detail below.

Tier 2 Core Activities

Green Tier applicants at the Tier 2 level must describe the **measures they propose to take to maintain and improve their superior environmental performance, with a schedule for implementation.**

Prospective Charter members who wish to participate at the Tier 2 level shall commit to undertake all of the following core activities:

- A. Manure handling training procedures that will prevent and minimize entry of manure into waters of the state;
- B. Emergency response plans that include the content described in s. NR 243.13(6)(b), Wis. Adm. Code to prevent, contain and clean up spills and overflows of any material that could have significant environmental impacts;
- C. Compliance with NR 151 Agricultural Standards and Prohibitions;
- D. No application of manure within 100 feet of private water supply wells and within 1000 feet of community and municipal water supply wells;
- E. Compliance with performance matrix when spreading solid manure (see Appendix 4);
- F. Identify drain tile outfalls and develop plans to minimize drainage of manure to waters of the state;
- G. Cancelled or unwanted farm chemicals shall be disposed through a local county Clean Sweep program or through DATCP's Clean Sweep Program manager if a local program does not exist;
- H. No open burning or burial of garbage or refuse at any time. No open burning of other materials (e.g., leaves) when a DNR-issued Air Quality Advisory is in effect;
- I. Comprehensive Nutrient Management Plan (CNMP);
- J. No mechanical surface application of manure on frozen or snow-covered ground;
- K. Six (6) month liquid manure storage;
- L. Total containment at the production area of all manure and process wastewater (i.e. no filter strips or overland flow systems);
- M. Elimination of headland stacking practices or stacking of manure in accordance with NRCS 313;
- N. Odor Minimization plan for land application and production areas in accordance with s. ATCP 51.14, Wis. Adm. Code;
- O. Public complaint response plan, odor response plan and public input plan;
- P. Management plan for feed storage leachate discharge or runoff in accordance with s. ATCP 51.20(3), Wis. Adm. Code; and,
- Q. Storm water management plan for fertilizers, pesticides, fuel storage, feed etc. handling areas.

NOTE: Many of the Tier 2 core activities are included as basic compliance requirements in WPDES permits issued by DNR to those dairy producers that are required to have a permit. In those cases, the Charter member must also continue to comply with all of the specific requirements of their permit. This Charter does not by itself reduce or waive any of the compliance requirements applicable to any dairy producer.

Tier 2 Elective Activities

In addition to the core activities described above, Charter members shall commit to undertake at least three elective activities of their choosing. These elective activities must be specified in the Green Tier application as part of the measures they propose to maintain and improve their superior environmental performance, along with a schedule for implementation.

All elective activities selected by the prospective Charter member should address a significant environmental aspect that has been identified by the Charter member via their EMS.

In *every* case, the Charter member shall choose elective activities that go beyond minimum compliance requirements, i.e. activities they are not otherwise required (e.g. by permit or local ordinance) to undertake. Members may, however, choose as an elective activity to go “beyond compliance” in an area where they are regulated (e.g., establishing buffer zones that are larger than required for compliance). Members cannot satisfy the model terms by choosing elective activities that are compliance requirements.

Finally, when selecting elective activities Charter members should be aware that the Green Tier program requires every participant to include objectives in their EMS that address at least two of the following three areas:

- Improving their environmental performance with respect to aspects regulated by DNR;
- Improving their environmental performance with respect to aspects not regulated by DNR; and,
- Voluntarily restoring, enhancing, or preserving natural resources.

DNR shall maintain on its website a list of examples of elective activities appropriate for each of these three areas so prospective Charter members can better understand their options. The list will not be exhaustive. Charter members will have the freedom to make use of the listed examples or to develop their own ideas for elective activities.

Tier 2 Incentives

Charter members participating at the Tier 2 level shall receive the following incentives:

- A. Individually negotiated contract with incentives that are proportional to the environmental benefits that will be provided;
- B. Numbered certificate of recognition;
- C. Publicity as specified in the participation contract and in Section IV.H. of this Charter;
- D. Use of Green Tier/Environmental Excellence logo as specified in the participation contract and in Appendix 5 of this Charter;
- E. Assignment of a DNR employee acceptable to the participant as their Single Point of Contact within DNR for Green Tier communications, DNR regulatory approvals, and technical assistance;
- F. Minimum inspection frequencies as specified in the participation contract and in s. 299.83(6)(j), Wis. Stats.;
- G. Eligibility for deferred civil enforcement as specified in the participation contract and in s. 299.83(6m), Wis. Stats.; and
- H. All other benefits of this Charter generally and as specified in the participation contract and in Sections III, IV, and V of this Charter.

Appendix 3: Restrictions for Surface Applying Liquid Manure on Frozen and Snow Covered Ground

(a) *Frozen ground-liquid manure.* Surface application of liquid manure on frozen ground is prohibited, except for an emergency situation under par. (d) or if allowed under par. (e). Injection or immediate incorporation of liquid manure is allowed on frozen ground, except if prohibited due to snow covered conditions under par. (b).

(b) *Snow covered ground-liquid manure.* Unless prohibited under par. (c) and subject to the frozen ground prohibition in par. (a), liquid manure may only be land applied to snow covered ground in accordance with the following:

1. If less than one inch of snow is present on the area where liquid manure is to be applied, surface application, injection or immediate incorporation of liquid manure is allowed.
2. If there is one to 4 inches of snow present on the area where liquid manure is to be applied, surface application of liquid manure is prohibited, except for department approved emergencies under par. (d) or if allowed under par. (e). Immediate incorporation or injection is allowed on areas where there is one to 4 inches of snow.
3. If there is greater than 4 inches of snow on the area where liquid manure is to be applied, surface application and incorporation of liquid manure is prohibited, except for department approved emergencies under par. (d) or if allowed under par. (e). Injection of liquid manure is allowed on areas where there is greater than 4 inches of snow.

(c) *High-risk runoff period.* 1. Unless there is a department approved emergency situation under par. (d), liquid manure may not be surface applied from February 1 through March 31.

(d) *Emergency applications for liquid manure.*

1. Except as provided in subd. 3., liquid manure may be surface applied on frozen or snow covered ground on an emergency basis in accordance with the restrictions in the below Table if all of the following conditions are met:
 - a. The manure is from a storage or containment facility that is designed and maintained in accordance with ss. NR 243.15 and 243.17 to provide 180 days of storage for the manure.
 - b. The application of manure is necessitated by exceedances or expected exceedances of the margin of safety level that were unavoidable due to unusual weather conditions, equipment failure or other unforeseen circumstances beyond the control of the Charter member.
 - c. The Charter member has notified the department verbally prior to the emergency application. Unless necessitated by imminent impacts to the environment or human or animal health, the Charter member may not apply manure to a field on an emergency basis until the department has verbally approved the application.
 - d. The Charter member submits a written description of the emergency application and the events leading to the emergency application to the department within 5 days of the emergency application.
2. Allowances for emergency surface applications of liquid manure do not apply to situations where a Charter member has failed to properly maintain storage capacity either through improper design or management of the storage facility, including failure to properly account for the number or volume of wastestreams entering the facility, failure to empty a storage or containment facility in accordance with permit conditions prior to the onset of frozen or snow covered ground conditions or due to an increase in animal units.
3. The Charter member may only conduct emergency surface applications of liquid manure in accordance with the restrictions in the below Table. The Charter member may only conduct

emergency surface applications on fields that the department has approved for emergency applications, in writing, as part of a nutrient management plan. The department may approve alternate fields and impose alternative restrictions, in writing on a case-by-case basis, if fields that meet the restrictions in the below Table are not available at the time of the emergency application, the Charter member has explored all other options identified in its emergency response plan, and the application results in a winter acute loss index value of 4 or less using the phosphorous index.

(e) *Existing source CAFOs-liquid manure exception.* Prior to January 1, 2010, if a Charter member does not have 180 days of storage for liquid manure as specified in s. NR 243.15, the Charter member may surface apply liquid manure on frozen or snow covered ground in accordance with the below Table without satisfying the emergency criteria in par. (d). If the Charter member does not have access to sites that meet the criteria in the below Table, the department may approve alternate sites and impose alternative restrictions, in writing on a case-by-case basis as part of a nutrient management plan, provided the application results in a winter acute loss index value of 4 or less using the phosphorus index. This allowance for existing source CAFOs to surface apply liquid manure on frozen or snow covered ground without satisfying the emergency criteria in par. (d) is not applicable after January 1, 2010.

(f) *Frozen liquid manure.* Liquid manure that is frozen and cannot be transferred to a manure storage facility may be surface applied on frozen or snow covered ground in accordance with the below Table. Surface applications of frozen liquid manure do not require prior department approval or notification provided application sites for frozen liquid manure are identified in the approved nutrient management plan. During February and March, the Charter member shall notify the department if the Charter member expects to surface apply frozen liquid manure more than 5 days in any one month.

Frozen and Snow Covered Ground Restrictions – Emergency Surface Applications of Liquid Manure

Criteria	Restrictions for fields with 0-2% slopes	Restrictions for fields with >2-6% slopes	Restrictions for fields with slopes greater than 6%
Required fall tillage practice prior to application	Chisel or moldboard plow or department approved equivalent ^A	Chisel or moldboard plow or department approved equivalent ^A	Not allowed
Application rate (cumulative per acre)	Maximum application volume of 7,000 gallons per acre per winter season, not to exceed 60 lbs. P ₂ O ₅ , the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied or other phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less	Maximum application volume of 3,500 gallons per acre per winter season, not to exceed 30 lbs. P ₂ O ₅ , the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or other phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less	Not allowed
Setbacks from surface waters	No application allowed within SWQMA	No application allowed within SWQMA	Not allowed
Setbacks from downslope areas of channelized flow, vegetated buffers, wetlands	200 feet	200 feet	Not allowed

Setbacks from direct conduits to groundwater	300 feet	300 feet	Not allowed
A – All tillage and farming practices shall be conducted along the contour in accordance with the following requirements; 0-2% slope = no contouring required, >2-6% slope = tillage and practices conducted along the general contour. The department may approve alternative tillage practices on a case-by-case basis in situations where conducting practices along the contour is not possible			

Appendix 4: Restrictions for Surface Applying Solid Manure on Frozen and Snow Covered Ground

The following restrictions apply to the land application of solid manure on frozen or snow covered ground:

(a) *Frozen ground–solid manure.* Unless prohibited under par. (c), solid manure may be surface applied on frozen ground if the manure is applied in compliance with the restrictions in the table below or otherwise immediately incorporated.

(b) *Snow covered ground–solid manure.* Unless prohibited under par. (c), solid manure may only be land applied to snow covered ground in accordance with the following:

1. If less than one inch of snow is present on the area where manure is to be land applied, the Charter member may surface apply or immediately incorporate the solid manure.
2. If one to 4 inches of snow is present on the area where manure is to be land applied, the Charter member shall surface apply the manure in compliance with restrictions in the table below or otherwise immediately incorporate the solid manure.
3. If more than 4 inches of snow is present on the area where manure is to be land applied, the Charter member shall surface apply the solid manure in compliance with the restrictions in the table below. Incorporation of solid manure is prohibited.

(c) High-risk runoff period.

1. Beginning January 1, 2008, solid manure may not be surface applied from February 1 through March 31 if any of the following conditions exist on the area of the field where the manure is to be applied:

- a. Snow is present to a depth of one inch or greater.
- b. The ground is frozen.

(d) To meet the requirements of par. (c), a Charter member may choose to stack solid manure rather than use a storage facility that meets the design requirements in s. NR 243.15.

(continued on next page)

Restrictions for Surface Applying Solid Manure on Frozen and Snow Covered Ground

Criteria	Restrictions for fields with 0-6% slopes	Restrictions for fields with slopes > 6% and up to 9%	Restrictions for fields with slopes greater than 9%
Required fall tillage practice prior to application	Chisel or moldboard plow, no-till or a DNR approved equivalent ^A	Chisel or moldboard plow, no-till or DNR approved equivalent ^A	Not allowed
Minimum % solids allowed	12%	> 20%	Not allowed
Application rate (cumulative per acre)	Not to exceed 60 lbs. P ₂ O ₅ per winter season, the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or phosphorus application restrictions specified in a DNR approved nutrient management plan, whichever is less	Not to exceed 60 lbs. P ₂ O ₅ per winter season, the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or phosphorus application restrictions specified in a DNR approved nutrient management plan, whichever is less	Not allowed
Setbacks from surface waters	No application allowed within SWQMA	No application allowed within 2.0 x SWQMA	Not allowed
Setbacks from downslope areas of channelized flow, vegetated buffers, and wetlands	200 feet	400 feet	Not allowed
Setbacks from direct conduits to groundwater	300 feet	600 feet	Not allowed
<p>A – All tillage and farming practices shall be conducted in accordance with the following requirements:</p> <ul style="list-style-type: none"> 0-2% slope = no contouring required; >2-6% slope = tillage and practices conducted along the general contour; >6% slope = tillage and farming practices conducted along the contour. <p>DNR may approve alternative tillage practices on a case-by-case basis in situations where conducting practices along the contour is not possible. Allowances for application on no-till fields only apply to fields where no-till practices have been in place for a minimum of 3 years.</p>			

Appendix 5 - Use of Green Tier Logo on Retail Dairy Products

DNR and DBA-GTAP agree to collaborate on a pilot program that will test the value and appropriateness of applying the Green Tier logo to labels on retail dairy products. The pilot program shall consist of three parts: 1) an initial conditional authorization to use the logo on retail dairy products; 2) a joint effort to collect relevant data; and, 3) an evaluation of whether to continue the authorization. Details of the pilot program follow.

Authorization

DNR shall authorize Green Tier participants at the Tier 1 or Tier 2 level to use the Green Tier logo on labels applied to retail dairy products, i.e., dairy products marketed directly to consumers or third parties, if and only if all of the following conditions are met:

1. The dairy processor is a Green Tier participant and the scope of their participation includes all aspects of producing the labeled product;
2. All of the liquid milk used to make the labeled product originates from dairy producers participating in Green Tier, and the scope of participation of each such dairy producer includes all aspects of producing the liquid milk used in the labeled product;
3. The dairy processor demonstrates to DNR that all of the above conditions are met prior to initially using the Green Tier logo on the label of a retail dairy product; and,
4. The dairy processor documents in each annual Green Tier report submitted to DNR that the above conditions are still being met.

DNR may at any time suspend or revoke an individual participant's authorization to use the Green Tier logo on retail dairy products if any of the above conditions are not met.

DNR will apply these criteria for use of the Green Tier logo on labels of retail dairy products to any entity participating in Green Tier, regardless of whether the entity is a member of this Charter. However, this authorization to use the Green Tier logo on the labels of retail dairy products does not in any way restrict the right of dairy processors to develop *other* environmental logos or brands, nor does it restrict the right of any Green Tier participant to use the Green Tier logo on written materials *other than product labels* in accordance with DNR guidelines.

Data Collection

DNR and DBA-GTAP shall jointly seek to collect relevant data and feedback regarding this pilot program on an ongoing basis. The Parties may also collaborate with other organizations (e.g., the Dairy Business Innovation Center) where appropriate in pursuit of relevant information. At a minimum, DNR and DBA-GTAP shall seek to collect and share data and feedback relevant to the following three topics:

1. Consumer Perceptions of Green Tier Logo - When the Green Tier logo appears on a retail dairy product, will consumers:
 - Choose the product over other similarly-priced products?
 - Be willing to pay more for the product?
 - Perceive that DNR has "endorsed" the quality, the nutritional value, or other attributes of the product?
 - Actively seek more information about Green Tier?
 - Assume the label implies things that it doesn't imply (e.g., rBGH-free)?
2. Conditions of Authorization - Are the conditions for authorization stipulated above necessary and sufficient to achieve the goals of the Green Tier program and this Charter, or are changes needed?
3. Monitoring Appropriate Use of Green Tier Logo - Is it practical for DNR to monitor how the Green Tier logo is used on products? What level of effort is necessary? Is there evidence of inappropriate logo use, and if so what level of effort is needed to remedy the situation?

Evaluation and Determination

On at least an annual basis, DNR and DBA-GTAP shall review and evaluate all available data and information relevant to this pilot program. Based on this review and evaluation, DNR and DBA-GTAP shall make a preliminary determination of whether to make the authorization described above permanent, to continue the authorization without change, or to revise, suspend, or revoke the authorization. DNR and DBA-GTAP shall then discuss this preliminary determination with any affected Green Tier participants prior to making a final written determination.

Any final determination to change the terms of the authorization shall be posted on DNR's website and shall take effect without requiring an amendment to this Charter.

Appendix 11

Elective Activities that Dairy Producers Can Undertake to Enhance Environmental Performance

The DBA-GTAP Charter includes Model Terms for dairy producers who wish to participate in Green Tier at the Tier 1 and Tier 2 levels. Prospective Charter members must commit to abide by the Model Terms, which consist of “core activities” undertaken by every Charter member and “elective activities” selected by the participant.

This document provides examples of elective activities that will hopefully illustrate to prospective Charter members the types of activities and the range of options they can consider. The examples provided are by no means an exhaustive list of the possibilities. Charter members will have the freedom to make use of the listed examples or to develop their own ideas for elective activities. DNR and DBA-GTAP will modify this document over time and new examples will be added to reflect elective activities actually selected by Charter members.

Selecting Elective Activities

Charter members shall commit to undertake at least three elective activities of their choosing. These elective activities must be specified in the Green Tier application, along with a schedule for implementation.

All elective activities selected by the prospective Charter member should address a significant environmental aspect that has been identified by the Charter member via their EMS.

In *every* case, the Charter member shall choose elective activities that go beyond minimum compliance requirements, i.e. activities they are not otherwise required (e.g. by permit or local ordinance) to undertake. Members may, however, choose as an elective activity to go “beyond compliance” in an area where they are regulated. Members cannot satisfy the model terms by choosing elective activities that are compliance requirements.

Finally, when selecting elective activities Charter members should be aware that the Green Tier program requires every participant to include objectives in their EMS that address at least two of the following three areas:

1. Improving their environmental performance with respect to aspects regulated by DNR;
2. Improving their environmental performance with respect to aspects not regulated by DNR; and,
3. Voluntarily restoring, enhancing, or preserving natural resources.

Examples of Elective Activities

1. Improving environmental performance with respect to aspects regulated by DNR

[NOTE: Some of the activities listed below are mandatory compliance requirement for CAFOs that hold a WPDES permit and in those cases may not be considered an elective activity, unless the Charter member goes above and beyond the requirements specified in their permit.]

- Take steps to reduce soil loss to significantly below tolerable levels (e.g., ½ “T”).
- Control wind erosion through windbreaks and other measures.
- Develop and implement a Comprehensive Nutrient Management Plan (CNMP). [NOTE: Under the terms of the DBA-GTAP Charter, a CNMP is a core requirement at the Tier 2 level. Therefore, Charter members wishing to participate at the Tier 2 level may not select the CNMP as an elective activity.]
- Inject manure or incorporate manure on the same date it is land-applied.
- Formulate and manage animal diets at advanced levels to reduce excess nutrients and minimize the amount of (excreted) nutrients contained in manure.
- Increase liquid manure storage capacity to six or more months. [NOTE: Under the terms of the DBA-GTAP Charter, six months storage capacity is a core requirement at the Tier 2 level. Therefore, a Charter member at the Tier 2 level must commit to significantly more than six months capacity in order to select this elective activity.]
- Store manure on a pad with a roof or cover.
- Increase the buffer zone around water supply wells to significantly more than the core activity requirement of 100 feet for private wells and 1000 feet for public wells.
- Identify unused wells and properly close them.
- Install monitoring wells near manure storage structures.
- Employ advanced management for silage storage including leachate collection.
- Improve management related to tiles to reduce environmental risks.
- Protect tile outlets to reduce sedimentation of streams and ditches.
- Reduce risk of manure discharges through tiles by developing a field-by-field plan, using surface tillage to disrupt the continuity of wormholes, macropores and root channels, and monitoring.
- Develop a mortality management plan that protects resources such as groundwater.
- Compost manure and land-apply or sell the compost.
- Work with suppliers to reduce packaging wastes and increase the reuse or recycling of materials that would otherwise be landfilled.

2. Improving environmental performance with respect to aspects not regulated by DNR

- Assess and improve energy efficiency using the *Farm Assessment Toolkit* developed by Wisconsin's Focus on Energy program and University of Wisconsin - Extension.
- Purchase electricity from your utility that comes from renewable sources such as wind or solar.
- Produce electricity or biofuels via an anaerobic digester or by other means.
- Use biodiesel or other biofuels in farm vehicles.
- Adopt practices that sequester carbon and/or take other steps toward carbon neutrality.
- Install engineered stream buffers using methods and designs recommended by the *Wisconsin Buffer Initiative* Advisory Committee.
- Conduct a water use audit, continually monitor on-farm water use, and adopt water conservation practices recommended by DNR or other reliable sources (e.g., the *Handbook of Water Use and Conservation* published by WaterPlow Press).
- Develop and implement biosecurity protocols to protect the health of animals, employees, visitors, and the public.
- Develop a worker safety and protection plan that safeguards the farm environment
- Take specific steps (e.g., organic production methods or integrated pest management) to reduce the use of inorganic fertilizers, pesticides, pharmaceuticals, or other chemicals.

- Follow the Fertilizer and Pesticide Bulk Storage requirements of ATCP 33, if storing either liquid fertilizer or pesticide in containers larger than 55 gallons, or dry fertilizer or pesticide in undivided quantities of more than 100 pounds.
- Take steps to minimize impact of farm vehicles on public roads and traffic flow.
- Provide material assistance to a supplier, customer, neighbor, or fellow dairy producer to help them comply with or exceed environmental requirements.
- Organize and coordinate a voluntary environmental improvement project for a group of dairy producers or others, e.g. to develop realistic options for recycling agricultural plastics.

3. Voluntarily restoring, enhancing, or preserving natural resources

- Enroll in voluntary NRCS programs such as the Conservation Reserve Program, Conservation Reserve Enhancement Program, Farm and Ranch Protection Program, Grassland Reserve Program, Wetlands Reserve Program, Environmental Quality Incentive Program, or the Wildlife Habitat Incentives Program.
- Install and maintain bluebird boxes, raptor perches, or bat houses.
- Restore habitat by planting and maintaining native trees, grasses, or wildflowers in appropriate locations.
- Collaborate with DNR or other organizations to develop and implement plans to prevent, control or eradicate invasive species (e.g., purple loosestrife, garlic mustard, gypsy moths).
- To minimize potential impacts on ground-nesting native birds, manage grasslands in keeping with the guidelines and recommendations in the DNR publication *Managing Habitat for Grassland Birds: A Guide for Wisconsin*.
- Restore or protect habitat for endangered or threatened species such as the Karner blue butterfly, e.g. through participation in DNR's Landowner Incentive Program.
- Protect, restore, or enhance wetlands using methods described in the *Wetland Restoration Handbook for Wisconsin Landowners* published by DNR.
- Sustain and improve the value of woodlands by participating in the Wisconsin Forest Landowner Grant Program.